United States Court of Appeals

for the Second Circuit

JOINT APPENDIX

76-7442

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IV

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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

OSCAR ROBERTSON, et al.,

Plaintiffs-Appellees,

WILTON N. CHAMBERLAIN, CLIFFORD RAY and CHESTER WALKER,

Appellants,

- against -

NATIONAL BASKETBALL ASSOCIATION, et al.,

Defendants-Appellees.

76-7442
76-7451

JOINT APPENDIX

Volume IV
1308-1810

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UNITED STATES COURT OF APPEALS
FILED
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A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSCAR ROBERTSON, et al., Plaintiffs, - against - NATIONAL BASKETBALL ASSOCIATION, et al., Defendants.	:	70 Civ. 1526 (RLC) AFFIDAVIT SUPPORTING SETTLEMENT AND OPPOSING OBJECTIONS THERETO

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

DAVID J. STERN, being duly sworn, deposes and says:

1. I am a member of the firm of Proskauer Rose Goetz & Mendelsohn, attorneys for all NBA defendants except Madison Square Garden Corporation and Madison Square Garden Center, Inc. I submit this affidavit in support of the application for approval, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, of the proposed settlement of the claims asserted in this action by plaintiffs, and in opposition to the objections to the proposed settlement raised by named plaintiff Chester Walker and class plaintiffs Wilton N. Chamberlain and Clifford Ray.

Introduction

2. The court record thus far attests to the intensity of this litigation. One hundred and forty-three witnesses have been deposed, 45,000 pages of testimony have been transcribed, approximately 200,000 documents have been produced for inspection. Motion practice, on substantive and procedural matters, has been extensive.

3. By all indications, the liability portion of the trial scheduled for June 1, 1976 would have lasted a minimum of two months. Had the jury determined liability on any claim or practice, months of discovery remained prior to a lengthy trial on damages -- a trial that could itself have lasted several months.

4. The issues raised -- the interaction of anti-trust law, federal labor policy and professional sports -- are so complex and the resources and will of the opposing parties sufficiently strong that the litigation promised to last for years, until ultimate determination by the Supreme Court, and possible trials after that.

5. Against this background, the NBA owners and NBA players have entered into the proposed settlement agreement and a parallel collective bargaining agreement, designed to accommodate the needs of the parties thereto and enable the sport of professional basketball to achieve a peace that has thus far eluded sports such as baseball and football.

6. The settlement agreement provides for a fund of $4.3 million to be distributed to the class members and, in addition, payment by the NBA defendants of the fees and disbursements of class counsel. Apart from these substantial outlays of money, the NBA defendants have agreed to far-reaching modifications in the practices challenged by plaintiffs. The modifications, which will increase the number of teams in the NBA with which present and future players may negotiate and sign during their careers, include the following:

(a) The NBA team selecting a player in the College Draft will now have, under normal circumstances, just one year

in which to sign him, failing which he becomes eligible for a second draft. If unsigned within one year of the second draft, the player may, under normal circumstances, negotiate and sign with any NBA team.

(b) The option clause will be removed from all uniform player contracts, except one-year contracts for rookies, and will be inserted in other contracts only if specifically agreed to by the player concerned.

(c) The present compensation rule will be phased out, to be replaced by a "Right of First Refusal", and there are assurances that while the compensation rule is retained it will not be used as a penalty.

7. It is not the purpose of this affidavit to praise the precise terms of the proposed settlement, but rather to support the concept -- a concept of conciliation over litigation. For other than obtaining peace, the defendants have not improved themselves. They are paying substantial sums of money to the plaintiffs and significantly modifying practices the legality of which, in their view, would ultimately have been upheld -- if not by the jury in this action then by an appellate court upon review. But these concessions were required by plaintiffs and their able counsel in order to settle the litigation.

8. Three plaintiffs (out of almost 500) have now interposed objections to this settlement. Plaintiff Ray has filed no formal objection, but the following objections emerge from the documents filed on behalf of Chamberlain and Walker:

(a) There is a constitutional deficiency in any class action certification that does not permit them, at this stage of the litigation, to "opt out" and prosecute separate

actions;

(b) Chamberlain and Walker each has suffered "individual" and "unique" injuries which are not adequately covered by the proposed settlement agreement;

(c) There was such great likelihood of success on the merits of plaintiffs' case that a settlement that encompasses any variation of the challenged practices must be disapproved; and

(d) The settlement fund is both inadequate in total amount and unfairly apportioned among class members.

9. Each of these arguments is without merit. The objecting plaintiffs, who authorized this lawsuit and availed themselves of its benefits, cannot now claim that the settlement is unconstitutional as to them. Their "unique" situations are essentially of their own making, and the motives of at least two of them in attacking the proposed settlement are suspect. The likelihood of success on the merits is not as projected by counsel for the objectors, and the challenged practices are clearly not per se violations of the antitrust laws. The settlement fund is more than adequate, and although defendants played no part in its allocation, the method utilized appears to us to be as fair as any other that might be employed.

There Is No Unfairness Whatever
In Precluding The Objectors
From Bringing Other Actions.

10. There can be no doubt that all three objectors -- Chamberlain, Walker and Ray -- have been kept abreast of developments in this litigation at all times. The affidavit of Lawrence Fleisher, counsel for the Players Association,

confirms the constant flow of information to the class, in addition to the formal notices sent to the class under Court order.

11. Given the demonstrated notice, the only additional question remaining relates to the adequacy of the representation afforded these objectors by class counsel. The Court is well aware of, and we will not belabor, the adversarial nature of this litigation, the competence of class counsel and their untiring efforts on behalf of the class.

12. The objectors may have their day to oppose the fairness, reasonableness and adequacy of the proposed settlement, but, as our accompanying memorandum of law demonstrates, they may not, as informed class members, well represented by counsel, sit back throughout the litigation and then attempt to thwart its settlement by "constitutional" claims as tenuous as those asserted here.

The Circumstances Of The Objectors Are Not "Unique".

13. We seriously doubt the bona fides of objector Ray in filing a token notice of objection. As is demonstrated by the annexed affidavit of Gordon Stirling, assistant to the President of the Golden State Warriors (the team to which Ray is contractually bound), Richard Phillips, Ray's attorney, has offered to withdraw the "objection" if on-going contract negotiations are resolved to Phillips' satisfaction.

14. As to Chamberlain and Walker, it is clear that there are no "unique" facts entitling them to special consideration. Chamberlain complains of the compensation rule; Walker complains of the option clause. Both of these

practices have been dealt with in the proposed settlement.

15. If there be any "unique" fact whatever, it is that Chamberlain and Walker elected to forego large salary offers for the 1975-76 basketball season, and then claim that they were injured by not earning those salaries. Mr. Walker's refusal to honor his contractual commitment for the 1975-76 season (at a salary of $165,000) is set forth in the annexed affidavit of H. Jonathan Kovler, managing partner of the Chicago Bulls. Mr. Chamberlain's refusal even to appear at meetings arranged to discuss a substantial offer to him by the New York Knickerbockers to induce him to play for the 1975-76 season is documented in the annexed affidavit of Michael Burke.

There Is A Substantial Risk
That Plaintiffs Would Not
Have Succeeded On The Merits.

16. The assertion of objectors Chamberlain and Walker that plaintiffs inevitably would have prevailed on all of their claims ignores, among other things, the prior rulings of this Court and the authorities recognizing that professional athletic leagues (1) require certain restraints for their very existences, and (2) the extent of those restraints are properly the subject of collective bargaining between players and owners.

17. The so-called "labor exemption" to the antitrust law presented plaintiffs with what we submit was an insurmountable barrier to establishing any liability on the part of the NBA defendants. (See the Memorandum dated July 25, 1974 and the Reply Memorandum dated September 20, 1974,

submitted by the NBA defendants in support of, among other things, their motion for summary judgment based upon the labor exemption, previously filed herein.) In the course of discovery, the NBA defendants were able to develop evidence that would have been introduced to establish that there had in fact been serious, intensive arms' length bargaining over the challenged practices between the National Basketball Players Association and the owners and also between individual players and teams. Even apart from such actual negotiation, the National Labor Relations Board has, by its decision to issue a complaint on the NBA's charge that the Players Association was required to negotiate over the challenged practices, given a clear indication that it views those practices as mandatory subjects of collective bargaining. The NBA has requested that the complaint not issue at this time (see letter dated March 3, 1976 from my partner, Howard L. Ganz to Mr. Abraham Borenstein of the NLRB which is annexed hereto as Exhibit 1), and will withdraw the unfair labor practice charge if and when the Stipulation and Settlement Agreement becomes final.

18. In respect to the substance of plaintiffs' antitrust claims, this Court expressly declined to find that any of the challenged practices was a per se violation and stated repeatedly that a determination of liability would have to await a full trial. The ultimate resolution of the legality of the practices would necessarily involve analysis of the facts peculiar to the business of professional sports, including the fundamental precept of all such sports that

the successful presentation of the league format requires that games be played between teams which are, to the greatest extent possible, competitive with one another. Since all of the practices challenged by plaintiffs have as their aim and purpose the maintenance of the competitive balance necessary to the very existence of the league, they cannot constitute unreasonable restraints of trade. (See the Memorandum dated June 3, 1975 submitted by the NBA defendants in opposition to plaintiffs' "per se" motion and the Affidavit of Simon P. Gourdine, sworn to May 30, 1975, previously filed herein.)

19. Even if plaintiffs were able to establish liability, their claim of financial damage, which throughout the course of the litigation was never quantified or particularized, simply could not succeed. As noted above, the practices at issue are designed to maintain competitive balance which, by increasing spectator interest in the sport, generates revenues and encourages the investment necessary to operate an NBA team. Without the generation of income which flows from the very operations plaintiffs attack, there would be no funds for payment of player salaries and fringe benefits and, indeed, without the league structure there would not even be a market for the services of most NBA players. Thus, far from causing plaintiffs or the class members any damage, the challenged practices have conferred on them substantial benefits.

20. The average annual salary paid to players in the NBA -- currently in excess of $100,000 -- is the highest in any league sport. A review of the financial data regarding NBA teams produced on discovery reveals that most teams' payrolls constitute an enormous percentage of their total

income and that, were salary levels any higher, many teams simply could not remain in business. Thus, the claim that elimination of the challenged practices would have necessarily increased player salaries is unsupportable.

21. The risks faced by the plaintiffs and the class members in establishing any damages are underscored by the results in Kapp v. National Football League, No. C-72-537 (N.D. Cal. 1976). In that case, after a finding by the court that certain restraints in professional football were illegal, the jury determined that plaintiff Kapp had not suffered any damages as a result of the challenged practices.

22. Finally, the economic condition of many NBA teams as shown by the financial data is such that, were each plaintiff and class member successful in securing a monetary judgment of even modest proportions, the aggregate award might well be uncollectible.

The Amount And Method Of The Allocation Of The Settlement Fund Is Not Unfair.

23. In light of the economic condition of many NBA teams and the difficulties confronting plaintiffs and the class in respect to their claim of damages, the settlement fund of $4.3 million, which is not to be diminished by payment of counsel fees, is plainly adequate. While the NBA defendants had no hand in determining how the settlement fund would be allocated, the allocation does not seem to us to be unfair in any respect. We find nothing unreasonable or discriminatory in an approach that emphasizes seniority as

opposed to the vague and indefensible "earning power" concept suggested by counsel for Walker and, apart from conclusory assertions, no showing of unfairness is made by any of the objectors.

A Covenant Not To Sue Is A Standard Feature In Class Action Settlements.

24. Notwithstanding objector Chamberlain's assertion that this Court is without power to approve a settlement containing a covenant not to sue, judges in this District have frequently and routinely given their approval to class action settlement agreements containing such covenants. See, e.g., Gilman v. Mohawk Data Sciences Corp., 71 Civ. 4742 (CMM); Aboudi v. Daroff, 72 Civ. 1118 (LWP); Pearlman v. Starrett Brothers & Eken Development Corp., 72 Civ. 2247 (JMC). Indeed, not only did the Aboudi and Pearlman settlement agreements include a covenant not to sue, they also included a general release of the settling defendants by the plaintiff class.

Conclusion

25. The proposed settlement, which affords plaintiffs and the class a substantial monetary recovery and fundamental modifications in the practices they attack, is necessarily a fair, adequate and reasonable resolution of this lawsuit since plaintiffs faced not only the prospect of many months of continued intensive litigation, but also serious obstacles to establishing liability and entitlement to damages. It represents a good faith, arms' length attempt to settle by negotiation differences that should not -- and really cannot -- be settled by judicial decree. I respect-

fully submit that the proposed settlement merits the approval of this Court.

David J. Stern
DAVID J. STERN

Sworn to before me this
22d day of June, 1976.

Jeffrey A. Mishkin
Notary Public

JEFFREY A. MISHKIN
NOTARY PUBLIC, State of New York
No. 31-4507312
Qualified in New York County
Commission Expires March 30, 1977

1319

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WILLIAM R. ROSE
(1875-1931)

JOSEPH M. PROSKAUER
(1930-1971)

NORMAN S. GOETZ
(1925-1972)

CABLE: ROPUT
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March 3, 1976

Mr. Abraham Borenstein
National Labor Relations Board
Region 2
26 Federal Plaza
New York, New York 10007

Re: National Basketball Players Association
(National Basketball Association)
Case No. 2-CB-5948

Dear Mr. Borenstein:

On January 29, 1976, you informed us and, as we understand, the attorney for the National Basketball Players Association, of the General Counsel's decision that a complaint would issue upon the charge filed by the National Basketball Association on July 10, 1975.

There is now a possibility that the NBA's charge may ultimately be withdrawn, and we respectfully request that the Board defer issuance of the complaint so as to enable the parties to pursue this possibility.

We have informed Mr. Gruenberger, counsel for the Players Association, of this request for deferral, and he has authorized us to inform you that he has no objection thereto.

Very truly yours,

Howard L. Ganz

Howard L. Ganz

HLG/sf
cc: Peter Gruenberger, Esq.
HAND DELIVERY

1320

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSCAR ROBERTSON, et al.,

Plaintiffs,

-against-

NATIONAL BASKETBALL ASSOCIATION, et al.,

Defendants.

70 Civ. 1526 (RLC)

AFFIDAVIT

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

MICHAEL BURKE, being duly sworn, deposes and says:

1. I am the president of defendant Madison Square Garden Center, Inc., which operates the New York Knickerbockers of the National Basketball Association. I make this affidavit to apprise the Court of relevant facts with respect to Wilton N. Chamberlain's negotiations with NBA teams during the 197[illegible] basketball season. Specifically, the facts set out below make clear that, Mr. Chamberlain's present claim to the contrary notwithstanding, he had no interest in playing professional basketball during the 1975-76 season.

2. I have been advised that prior to the commencement of the 1974-75 basketball season, Mr. William "Red" Holzman, then coach and general manager of the Knickerbockers, discussed with Mr. Seymour Goldberg, Mr. Chamberlain's attorney, whether Mr. Chamberlain would be interested in playing basketball for the 1974-75 season. Mr. Holzman told Mr. Goldberg that the Knickerbockers were interested in obtain

the rights to, and then contracting with, Mr. Chamberlain. Despite this expression of Knicker[illegible]er interest, neither Mr. Chamberlain nor Mr. Goldberg e[illegible]ommunicated to Mr. Holzman or me that Mr. Chamberlain wanted to play for the Knickerbockers in 1974-75.

3. Prior to the commencement of the 1975-76 basketball season Mr. Edward Donovan, general manager of the Knicker bockers, was advised that Mr. Chamberlain might be interested in playing basketball for the Knickerbockers in 1975-76. Upon learning of Mr. Chamberlain's possible interest, I telephoned Mr. Goldberg and through him arranged for a meeting in Los Angeles with Mr. Chamberlain. Mr. Donovan and I flew to Los Angeles to discuss with Mr. Chamberlain and Mr. Goldberg whether Mr. Chamberlain would be interested in playing with the Knickerbockers in 1975-76. Mr. Chamberlain never appeared at the scheduled meeting. I stayed in Los Angeles over night and the next day called Mr. Goldberg to see whether Mr. Chamberlain was now available to meet with me. Mr. Goldberg told me that, despite the pre-arranged meeting and my special trip to Los Angeles, Mr. Chamberlain was in Hawaii and was therefore not available to meet with me.

4. Had Mr. Chamberlain kept the appointment and met with us, the New York Knickerbockers were prepared to offer him a very substantial contract covering at least the 1975-76 season. We were aware that under the NBA's compensation rule, the Commissioner would be authorized (but not required) to award compensation to Los Angeles if we signed Chamberlain to a contract. Since the rule is not meant to serve as a penalty -- but rather to make a team (such as Los Angeles) whole for any loss they may suffer by losing a player -- the compensation rule did not lessen in any way our interest in signing

Chamberlain to a contract.

5. Notwithstanding our interest in Mr. Chamberlain -- as shown by my phone calls and my special and futile trip to the coast -- I never again heard from Mr. Goldberg and at no time heard from Mr. Chamberlain with respect to playing during the 1975-76 season.

6. Based upon my experience with Mr. Chamberlain, it is my conclusion that he was not interested in playing professional basketball in 1975-76. Given the Knickerbockers' expressed interest in him, I cannot understand why, if he was interested in playing basketball, he would not have kept the appointment his attorney had made and met with me.

MICHAEL BURKE

Sworn to before me this
18th day of June, 1976

Notary Public

CAMILLE GONZALEZ
Notary Public, State of New York
No. 41-6037275 Qual. in Queens Co.
Commission Expires March 30, 19[illegible]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSCAR ROBERTSON, et al., Plaintiffs, -against- NATIONAL BASKETBALL ASSOCIATION, et al., Defendants.	70 Civ. 1526 (RLC) AFFIDAVIT

STATE OF MASSACHUSETTS)
COUNTY OF BARNSTABLE)

H. JONATHAN KOVLER, being duly sworn, deposes and says:

1. I am the managing partner of the Chicago Bulls of the National Basketball Association, a team that is operated by defendant Chicago Professional Sports Corporation. I make this affidavit so that the Court may have before it, under oath, the facts concerning plaintiff Chester Walker's contract with the Chicago Bulls. Those facts, set forth below, demonstrate Mr. Walker has not been "unable" to play in the NBA during the 1975-76 season, and that any alleged "injury" that may have been incurred by Mr. Walker during that time was purely self-inflicted.

2. On September 14, 1974, Mr. Walker signed a one year contract with Chicago which called for an annual salary of $165,000. The contract was a "no cut" contract meaning that Mr. Walker would receive his salary even if he did not demonstrate sufficient skills to

remain a member of the Chicago Bulls team. The contract included an option which, if exercised by Chicago, by August 1, 1975, renewed the contract for an additional year on the same terms and conditions. (A copy of the contract is annexed as Exhibit A.)

3. Mr. Walker played with Chicago during the 1974-75 season and received his stated salary. Following that season Chicago exercised the option referred to above by tendering Mr. Walker a contract prior to August 1, 1975.

4. By the exercise of the option for the 1975-76 season, Chicago became obligated to pay Mr. Walker $165,000, provided he was willing to play for Chicago for the 1975-76 season. Mr. Walker, however, declined to play with Chicago. He was quoted in the press as saying that he "had a choice of playing basketball in a chaotic situation or retiring, and I chose the latter." Ironically, Mr. Walker, in the negotiations with Chicago with respect to his 1974-75 contract, had successfully insisted on a provision which provided that he could not be traded from Chicago without his consent.

5. In late January 1976, Mr. Walker commenced a lawsuit complaining that he suffered financial injury because of Chicago's exercise of the option in August, 1975. No such individual lawsuit had been commenced by him after Chicago had exercised the option in 1972 and 1974. Significantly, in each of those instances Mr. Walker was able to renegotiate his contract more favorably than that called for in the option. Apparently, Chicago's insistance that for the 1975-76 season Walker must honor his contract led Mr. Walker to sue. The financial

"injury" Mr. Walker claims to have suffered was simply a result of his refusal to honor his contractual obligation and play with Chicago for this past season. Had he done so he would have been entitled to receive a salary of $165,000.

H. JONATHAN KOVLER

Sworn to before me this

17th day of June 1976.

Notary Public

My Commission expires February 10, 1978.

1326

NATIONAL BASKETBALL ASSOCIATION

UNIFORM PLAYER CONTRACT

(For Use When Contract Is For A Single Season)

THIS AGREEMENT made this 14th day of September, 19 74 by and between Chicago Professional Sports Corporation (hereinafter called the "Club"), a member of the National Basketball Association (hereinafter called the "Association") and Chester Walker whose address is shown below (hereinafter called the "Player").

WITNESSETH:

In consideration of the mutual promises hereinafter contained, the parties hereto promise and agree as follows:

1. The Club hereby employs the Player as a skilled basketball player for the term of one year from the 1st day of September 19 74. The Player's employment shall include attendance at training camp, playing the games scheduled for the Club's team during the schedule season of the Association, playing all exhibition games scheduled by the Club during and prior to the schedule season, playing (if invited to participate) in the Association's All-Star Game and attending every event (including, but not limited to, the All-Star Game luncheon and/or banquet) conducted in association with the All-Star Game, and playing the playoff games subsequent to the schedule season. Players other than rookies will not be required to attend training camp earlier than four weeks prior to the first game of the Association's schedule season. Rookies may be required to attend training camp at an earlier date. Exhibition games shall not be played on the three days prior to the opening of a team's regular season schedule, nor on the day prior to a regularly scheduled game, nor on the day prior to and the day following the All-Star Game. Exhibition games prior to the schedule season shall not exceed eight (including intra-squad games for which admission is charged) and exhibition games during the regularly scheduled season shall not exceed three.

2. The Club agrees to pay the Player for rendering services described herein the sum of $165,000 (less all amounts required to be withheld from salary by Federal, State and local authorities and exclusive of any amount which the Player shall be entitled to receive from the Player Playoff Pool) in twelve equal semi-monthly payments beginning with the first of said payments on November 1st of the season above described and continuing with such payments on the first and fifteenth of each month until said sum is paid in full; provided however, if the Club does not qualify for the playoffs, the payments due subsequent to the conclusion of the schedule season shall become due and payable immediately after the conclusion of the schedule season.

3. The Club agrees to pay all proper and necessary expenses of the Player, including the reasonable board and lodging expenses of the Player while playing for the Club "on the road" and during training camp if the Player is not then living at home. The Player, while "on the road" (and at training camp only if the Club does not pay for meals directly) shall be paid $19.00 per day as meal expense allowance in accordance with the following schedule: breakfast $3.00; lunch $6.00; dinner $10. No deductions shall be made for meals served on an airplane. While the Player is at training camp (and if the Club does not pay for meals directly), the meal expense allowance shall be paid in weekly installments commencing with the first week of training camp. For the purposes of this paragraph, the Player shall be considered to be "on the road" from the time the Club leaves its home city until the time the Club arrives back at its home city. In addition, the Club agrees to pay $50.00 per week to the

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Only

Player for the four weeks prior to the first game of the Association's schedule season that the Player is either in attendance at training camp or engaged in playing the exhibition schedule.

4. The Player agrees to observe and comply with all requirements of the Club respecting conduct of its team and its players, at all times whether on or off the playing floor. The Club may, from time to time during the continuance of this contract, establish reasonable rules for the government of its players "at home" and "on the road", and such rules shall be part of this contract as fully as if herein written and shall be binding upon the Player; for any violation of such rules or for any conduct impairing the faithful and thorough discharge of the duties incumbent upon the Player, the Club may impose reasonable fines upon the Player and deduct the amount thereof from any money due or to become due to the Player. The Club may also suspend the Player for violation of any rules so established, and during such suspension the Player shall not be entitled to any compensation under this contract. When the Player is fined or suspended, he shall be given notice in writing, stating the amount of the fine or the duration of the suspension and the reason therefor. Disputes under this paragraph shall be resolved in the manner provided for in paragraph 21 hereof.

5. The Player agrees (a) to report at the time and place fixed by the Club in good physical condition; (b) to keep himself throughout the entire season in good physical condition; (c) to give his best services, as well as his loyalty to the Club, and to play basketball only for the Club and its assignees; (d) to be neatly and fully attired in public and always to conduct himself on and off the court according to the highest standards of honesty, morality, fair play and sportsmanship; and (e) not to do anything which is detrimental to the best interests of the Club or of the Association.

6. If the Player, in the sole judgment of the physician designated for that purpose by the Club, is not in good physical condition at the date of his first scheduled game for the Club, or if, during the season, he fails to remain in good physical condition, unless such condition results directly from playing basketball for the Club, so as to render him, in the sole judgment of the Club's physician, unfit to play skilled basketball, the Club shall have the right to suspend such Player until such time as, in the sole judgment of the Club's physician, the Player is in sufficiently good physical condition to play skilled basketball, and in the event of such suspension, the annual sum payable to the Player shall be reduced in the same proportion as the length of the period of disability during which, in the sole judgment of the Club's physician, the Player is unfit to play skilled basketball, bears to the length of the season. If the Player is injured as a direct result of participating in any basketball practice or game played for the Club, the Club will pay the Player's reasonable hospitalization until he is discharged from the hospital and his reasonable medical expenses and doctor's bills, provided the hospital and the doctor are selected by the Club, and provided further, that the Club's obligation to pay said medical expenses and said doctor's bills shall terminate at a period not exceeding eight (8) weeks after the injury. If, in the sole judgment of the physician designated for that purpose by the Club, the Player's injuries resulted directly from playing for the Club and render him unfit to play skilled basketball, then, so long as such unfitness continues, but in no event beyond the term of one year referred to in paragraph 1 of this agreement, the Club shall pay to the Player the compensation prescribed in paragraph 2 of this agreement. The Club's obligations hereunder shall be reduced by any workmen's compensation benefits and any insurance provided for by the Club whether paid or payable to the Player, and the Player hereby releases the Club from any and every other obligation or liability arising out of any such injuries.

7. The Player agrees to give to the Club's coach, or to the Club's physician, immediate notice of any injury suffered by him, including the time, place, cause and nature of such injury.

8. Should the Player become disabled as provided in the preceding section, he will submit himself to a medical examination and treatment by a physician designated by the Club. Such examination when made at the request of the Club shall be at its expense, unless made necessary by some act or conduct of the Player contrary to the terms of this contract.

9. The Player represents and agrees that he has extraordinary and unique skill and ability as a basketball player, that the services to be rendered by him hereunder cannot be placed or the loss thereof adequately compensated for in money damages, and that any breach by the Player of this contract will cause irreparable injury to the Club and to its assignees. Therefore, it is agreed that in the event it is alleged by the Club that the Player is playing, attempting or threatening to play, or negotiating for the purpose of playing, during the term of this contract, for any other person, firm, corporation or organization, the Club and its assignees (in addition to any other remedies that may be available to them judicially or by way of arbitration) shall have the right to obtain from any court or arbitrator having jurisdiction, such equitable relief as may be appropriate, including a decree enjoining the player from any further such breach of this contract, and enjoining the Player from playing basketball for any other person, firm, corporation or organization during the term of this contract. In any suit, action or arbitration proceeding brought to obtain such relief, the Player does hereby waive his right, if any, to trial by jury, and does hereby waive his right, if any, to interpose any counterclaim or set-off for any cause whatever.

10. The Club shall have the right to sell, exchange, assign or transfer this contract to any other professional basketball club and the Player agrees to accept such sale, exchange, assignment or transfer and to faithfully perform and carry out this contract with the same force and effect as if it had been entered into by the Player with the assignee club instead of with this Club.

11. In the event that the Player's contract is sold, exchanged, assigned or transferred to any other professional basketball club, all reasonable expenses incurred by the Player in moving himself and his family from the home city of the Club to the home city of the club to which such sale, exchange, assignment or transfer is made, as a result thereof, shall be paid by the assignee club. Such assignee club hereby agrees that its acceptance of the assignment of this contract constitutes agreement on its part to make such payment.

12. In the event that the Player's contract is assigned to another club the Player shall forthwith be notified orally or by a notice in writing, delivered to the Player personally or delivered or mailed to his last known address, and the Player shall report to the assignee club within forty-eight hours after said notice has been received or within such longer time for reporting as may be specified in said notice. If the Player does not report to the club to which his contract has been assigned within the aforesaid time, the Player may be suspended by such club and he shall lose the sums which would otherwise be payable to him as long as the suspension lasts.

13. The Club will not pay and the Player will not accept any bonus or anything of value for winning any particular Association game or series of games or for attaining a certain position by the Club's team in the standing of the league operated by the Association as of a certain date, other than the final standing of the team.

14. This contract shall be valid and binding upon the Club and the Player immediately upon its execution. The Club agrees to file a copy of this contract with the Commissioner of the Association prior to the first game of the schedule season or within forty-eight (48) hours of its execution, whichever is later; provided, however, the Club agrees that if the contract is executed prior to the start of the schedule season and if the Player so requests, it will file a copy of this contract with the Commissioner of the Association within thirty (30) days of its execution, but not later than the date hereinabove specified. If pursuant to the Constitution and By-Laws the Commissioner disapproves this contract within ten (10) days after the filing thereof in his office, this contract shall thereupon terminate and be of no further force or effect and the Club and the Player shall thereupon be relieved of their respective rights and liabilities thereunder.

15. The Player and the Club acknowledge that they have read and are familiar with Section 35 of the Constitution of the Association, a copy of which, as in effect on the date of this Agreement, is attached hereto. Such section provides that the Commissioner and the Board of Governors of the

Association are empowered to impose fines upon the player and/or upon the Club for causes and in the manner provided in such section. The Player and the Club, each for himself and itself, promises promptly to pay to the said Association each and every fine imposed upon him or it in accordance with the provisions of said section and not permit any such fine to be paid on his or its behalf by anyone other than the person or club fined. The Player further authorizes the Club to deduct from his salary payments any fines imposed on or assessed against him.

16. Notwithstanding any provisions of the Constitution or of the By-Laws of the Association, it is agreed that if the Commissioner of the Association shall, in his sole judgment, find that the Player has bet, or has offered or attempted to bet, money or anything of value on the outcome of any game participated in by any club which is a member of the Association, the Commissioner shall have the power in his sole discretion to suspend the Player indefinitely or to expel him as a player for any member of the Association and the Commissioner's finding and decision shall be final, binding, conclusive and unappealable. The Player hereby releases the Commissioner and waives every claim he may have against the Commissioner and/or the Association, and against every member of the Association, and against every director, officer, stockholder, trustee and partner of every member of the Association, for damages and for all claims and demands whatsoever arising out of or in connection with the decision of the Commissioner.

17. The Player and the Club acknowledge and agree that the Player's participation in other sports may impair or destroy his ability and skill as a basketball player. The Player and the Club recognize and agree that the Player's participation in basketball out of season may result in injury to him. Accordingly, the Player agrees that he will not engage in professional boxing or wrestling; and that, except with the written consent of the Club, he will not engage in any game or exhibition of basketball, football, baseball, hockey, lacrosse, or other athletic sport, under penalty of such fine and suspension as may be imposed by the Club and/or the Commissioner of the Association. Nothing contained herein shall be intended to require the Player to obtain the written consent of the Club in order to enable the Player to participate in, as an amateur, the sport of golf, tennis, handball, swimming, hiking, softball or volleyball.

18. The Player agrees to allow the Club or the Association to take pictures of the Player, alone or together with others, for still photographs, motion pictures or television, at such times as the Club or the Association may designate, and no matter by whom taken may be used in any manner desired by either of them for publicity or promotional purposes. The rights in any such pictures taken by the Club or by the Association shall belong to the Club or to the Association, as their interests may appear. The Player agrees that, during the playing season, he will not make public appearances, participate in radio or television programs or permit his picture to be taken or write or sponsor newspaper or magazine articles or sponsor commercial products without the written consent of the Club, which shall not be withheld except in the reasonable interests of the Club or professional basketball. In addition to the foregoing, the Player agrees to participate, upon request, in all other reasonable promotional activities of the Club and the Association.

19. The Player agrees that he will not, during the term of this contract, directly or indirectly entice, induce, persuade or attempt to entice, induce or persuade any player or coach who is under contract to any member of the Association to enter into negotiations for or relating to his services as a basketball player or coach, nor shall he negotiate for or contract for such services, except with the prior written consent of such member of the Association. Breach of this paragraph, in addition to the remedies available to the Club, shall be punishable by fine to be imposed by the Commissioner of the Association and to be payable to the Association out of any compensation due or to become due to the Player hereunder or out of any other moneys payable to him as a basketball player. The Player agrees that the amount of such fine may be withheld by the Club and paid over to the Association.

20. (a) If the Club shall default in the payments to the Player provided for in paragraph 2 hereof or shall fail to perform any other material obligation agreed to be performed by the Club here-

under, the Player shall notify both the Club and the Association in writing of the facts constituting such default or failure. If neither the Club nor the Association shall cause such default or failure to be remedied within ten (10) days after receipt of such written notice, the Player shall have the right, by a further written notice to the Club and Association, to terminate this contract.

(b) The Club may terminate this contract upon written notice to the Player (but only after complying with the waiver procedure provided for in subparagraph (f) of this paragraph 20) if the Player shall do any of the following:

(1) at any time, fail, refuse or neglect to conform his personal conduct to standards of good citizenship, good moral character and good sportsmanship, to keep himself in first class physical condition or to obey the Club's training rules; or

(2) at any time, fail, in the sole opinion of the Club's management, to exhibit sufficient skill or competitive ability to qualify to continue as a member of the Club's team (provided, however, that if this contract is terminated by the Club, in accordance with the provisions of this subparagraph, during the period from December 2 through April 30 of any season, the Player shall be entitled to receive his full salary for said season); or

(3) at any time, fail, refuse or neglect to render his services hereunder or in any other manner materially breach this contract.

(c) If this contract is terminated by the Club by reason of the Player's failure to render his services hereunder due to disability resulting directly from injury sustained in the course and within the scope of his employment hereunder and written notice of such injury is given by the Player as provided herein, the Player shall be entitled to receive his full salary for the season in which the injury was sustained, less all workmen's compensation benefits and any insurance provided for by the Club paid or payable to the Player by reason of said injury.

(d) If this contract is terminated by the Club during the period designated by the Club for attendance at training camp, payment by the Club of the Player's board, lodging and expense allowance during such period to the date of termination and of the reasonable travelling expenses of the Player to his home city and the expert training and coaching provided by the Club to the Player during the training season shall be full payment to the Player.

(e) If this contract is terminated by the Club during the playing season, except in the case provided for in subparagraph (c) of this paragraph 20, the Player shall be entitled to receive as full payment hereunder a sum of money which, when added to the salary which he has already received during the season, will represent the same proportionate amount of the total sum set forth in paragraph 2 hereof as the number of days of the season then past bear to the total number of days of the schedule season, plus the reasonable travelling expenses of the Player to his home.

(f) If the Club proposes to terminate this contract in accordance with subparagraph (b) of this paragraph 20, the applicable waiver procedure shall be as follows:

(1) The Club shall request the Association Commissioner to request waivers from all other clubs. Such waiver request must state that it is for the purpose of terminating this contract and it may not be withdrawn.

(2) Upon receipt of the waiver request, any other club may claim assignment of this contract at such waiver price as may be fixed by the Association, the priority of claims to be determined in accordance with the Association's Constitution or By-Laws.

(3) If this contract is so claimed, the Club agrees that it shall, upon the assignment of this contract to the claiming club, notify the player of such assignment as provided in paragraph 12 hereof, and the Player agrees he shall report to the assignee club as provided in said paragraph 12.

(4) If the contract is not claimed, the Club shall promptly deliver written notice of termination to the Player at the expiration of the waiver period.

(5) To the extent not inconsistent with the foregoing provisions of this subparagraph (f) the waiver procedures set forth in the Constitution and By-Laws of the Association, a copy of which, as in effect on the date of this agreement is attached hereto, shall govern.

(g) Upon any termination of this contract by the Player, all obligations of the Club to pay compensation shall cease on the date of termination, except the obligation of the Club to pay the Player's compensation to said date.

21. In the event of any dispute arising between the Player and the Club relating to any matter arising under this contract, or concerning the performance or interpretation thereof (except for a dispute arising under paragraph 9 hereof), such dispute shall be resolved in accordance with the Grievance and Arbitration Procedure set forth in the Agreement currently in effect between the National Basketball Association and the National Basketball Players Association.

22. On or before August 1 next following the last playing season covered by this contract and renewals and extensions thereof, the Club may tender to the Player a contract for the next succeeding season by mailing the same to the Player at his address shown below, or if none is shown, then at his address last known to the Club. If the Player fails, neglects or omits to sign and return such contract to the Club so that the Club receives it on or before September 1st next succeeding, then this contract shall be deemed renewed and extended for the period of one year, upon the same terms and conditions in all respects as are provided herein, except that the compensation payable to the Player shall be the sum provided in the contract tendered to the Player pursuant to the provisions hereof, which compensation shall in no event be less than the compensation payable to the Player for the last playing season covered by this contract and renewals and extensions thereof.

The Club's right to renew this contract, as herein provided, and the promise of the Player not to play otherwise than for the Club and its assignees, have been taken into consideration in determining the amount of compensation payable under paragraph 2 hereof.

23. Nothing contained in this agreement or in any provision of the Constitution or By-Laws of the Association shall be construed to constitute the Player a member of the Association or to confer upon him any of the rights or privileges of a member thereof.

This is a no cut, no trade contract for the 1974-75 basketball season except for the limited purposes of an expansion draft for the 1975-76 season. Notwithstanding, if Chester Walker advises the Chicago Bulls in writing of his intention to return for the 1975-76 playing season 5 days prior to the expansion draft date set by the League, the Chicago Bulls will withhold Chester Walker's name from that expansion draft and, therefore, keep his name on the protected roster.

24. This agreement contains the entire agreement between the parties and there are no oral or written inducements, promises or agreements except as contained herein.

EXAMINE THIS CONTRACT CAREFULLY BEFORE SIGNING IT

IN WITNESS WHEREOF the Player has hereunto signed his name and the Club has caused this contract to be executed by its duly authorized officer.

WITNESSES:

Chicago Professional Sports Corporation

By _____

Title:

_____

Player

Chester Walker

88 West Schiller

Player's Address Apt. 1208

Chicago, Illinois 60610

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EXCERPT FROM CONSTITUTION OF THE ASSOCIATION

MISCONDUCT OF OFFICIALS AND OTHERS

35. (a) The provisions of this Section shall govern all members, and officers, managers, coaches, players and other employees of a member, and all officials and other employees of the Association, all hereinafter referred to as "persons." Each member shall provide and require in every contract with any of its officers, managers, coaches, players or other employees that they shall be bound and governed by the provisions of this Section. Each member, at the direction of the Board of Governors or the Commissioner, as the case may be, shall take such action as the Board or the Commissioner may direct in order to effectuate the purposes of this Section.

(b) The Commissioner shall direct the dismissal and perpetual disqualification from any further association with the Association or any of its members, of any person found by the Commissioner after a hearing to have been guilty of offering, agreeing, conspiring, aiding or attempting to cause any game of basketball to result otherwise than on its merits.

(c) Any person who gives, makes, issues, authorizes or endorses any statement having, or designed to have, an effect prejudicial or detrimental to the best interests of basketball or of the Association or of a member or its team, shall be liable to a fine not exceeding $1,000, to be imposed by the Board of Governors. The member whose officer, manager, coach, player or other employee has been so fined shall pay the amount of the fine should such person fail to do so within ten (10) days of its imposition.

(d) If in the opinion of the Commissioner any other act or conduct of a person at or during a pre-season, championship, playoff or exhibition game has been prejudicial to or against the best interests of the Association or the game of basketball, the Commissioner shall impose upon such person a fine not exceeding $1,000 in the case of a member, officer, manager or coach of a member, or $500 in the case of a player or other employee, or may order for a time the suspension of any such person from any connection or duties with pre-season, championship, playoff or exhibition games, or he may order both such fine and suspension.

(e) The Commissioner shall have the power to suspend for a definite or indefinite period, or to impose a fine not exceeding $1,000, or inflict both such suspension and fine upon any person who, in his opinion, shall have been guilty of conduct prejudicial or detrimental to the Association.

(f) The Commissioner shall have the power to levy a fine of $1,000 upon any Governor or Alternate Governor who, in the opinion of the Commissioner, has been guilty of making statements to the press damaging to the Association.

(g) Any person who, directly or indirectly, entices, induces, persuades or attempts to entice, induce, or persuade any player, coach, trainer, general manager or any other person who is under contract to any other member of the Association to enter into negotiations for or relating to his services or negotiates or contracts for such services shall, on being charged with such tampering, be given an opportunity to answer such charges after due notice and the Commissioner shall have the power to decide whether or not the charges have been sustained; in the event his decision is that the charges have been sustained, then the Commissioner shall have the power to suspend such person for a definite or indefinite period, or to impose a fine not exceeding $5,000, or inflict both such suspension and fine upon any such person.

(h) Any person who, directly or indirectly, wagers money or anything of value on the outcome of any game played by a team in the league operated by the Association shall, on being charged with such wagering, be given an opportunity to answer such charges after due notice, and the decision of the Commissioner shall be final, binding and conclusive and unappealable. The penalty for such offense shall be within the absolute and sole discretion of the Commissioner and may include a fine, suspension, expulsion and/or perpetual disqualification from further association with the Association or any of its members.

(i) Except for a penalty imposed under subparagraph (h) of this paragraph 35, the decisions and acts of the Commissioner pursuant to paragraph 35 shall be appealable to the Board of Governors who shall determine such appeals in accordance with such rules and regulations as may be adopted by the Board in its absolute and sole discretion.

EXCERPT FROM BY-LAWS OF THE ASSOCIATION

3.07 *Waiver Right.* Except for sales and trading between Members in accordance with these By-Laws, no Member shall sell, option or otherwise transfer the contract with, right to the services of, or right to negotiate with, a Player without complying with the waiver procedure prescribed by these By-Laws.

3.08 *Waiver Price.* The waiver price shall be $1,000 per Player.

3.09 *Waiver Procedure.* A Member desiring to secure waivers on a Player shall notify the Commissioner, and the Commissioner, on behalf of such Member, shall immediately notify all other Members of the waiver request. Such Player shall be assumed to have been waived unless a Member shall timely notify the Commissioner by telegram and telephone of a claim to the rights of such Player. Once a Member has notified the Commissioner to attempt to secure waivers on a Player, such notice may not be withdrawn. A Player remains the financial responsibility of the Member placing him on waivers until the waiver period set by the Commissioner has expired.

3.10 *Waiver Period.* If the Commissioner distributes notice of request for waiver at any time during the Season or within four weeks before the beginning of the Season, any Members wishing to claim rights to the Player shall do so by giving notice by telephone and telegram of such claim to the Commissioner within 48 hours after the time of the Commissioner's notice. If the Commissioner distributes notice of request for waiver at any other time, any Member wishing to claim rights to the Player shall do so by sending notice of such Claim to the Commissioner within ten days after the date of the Commissioner's notice. A team may not withdraw a claim to the rights to a Player on waivers.

3.11 *Waiver Preferences.* In the event that more than one Member shall have claimed rights to a Player placed on waivers, the claiming Member with the lowest team standing at the time the waiver was requested shall be entitled to acquire the rights to such Player. If the request for waiver shall occur between Seasons or prior to midnight November 30th, the standings at the close of the previous Season shall govern.

If the won and lost percentages of two claiming Teams are the same, then the tie shall be determined, if possible, on the basis of the Championship Games between the two teams, during the Season or during the preceding Season, as the case may be. If still tied, a toss of the coin shall determine priority. For the purpose of determining standings, both conferences of the Association shall be deemed merged and a consolidated standing shall control.

3.12 *Players Acquired Through Waivers.* A Member who has acquired the rights and title to the contract of a player through the waiver procedure may not sell, trade or waive such rights for a period of 30 days after the acquisition thereof, provided, however, that if the rights to such Player were acquired between Seasons, the 30 day period described herein shall begin on the first day of the next succeeding Season.

3.13 *Additional Waiver Rules.* The Commissioner or the Board of Governors shall from time to time adopt such additional rules (supplementary to these By-Laws) with respect to the operation of the waiver procedures as he or it shall determine. Such rules shall not be inconsistent with these By-Laws and shall apply to but shall not be limited to the mechanics of notice, inadvertent omission of notification to a Member and rules of construction as to time.

1335

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSCAR ROBERTSON, et al.,

Plaintiffs,

-against-

NATIONAL BASKETBALL ASSOCIATION, et al.,

Defendants.

70 Civ. 1526 (RLC)

AFFIDAVIT

STATE OF MASSACHUSETTS)

COUNTY OF BARNSTABLE)

GORDON STIRLING, being duly sworn, deposes and says:

1. I am assistant to the president of the Golden State Warriors of the National Basketball Association and make this affidavit to inform the Court of certain facts with respect to class objectant Clifford Ray. As reflected by the facts set out below, Mr. Ray's purported objections to the class action settlement are nothing more than a tactic in his present contract negotiations with Golden State.

2. The stated term in Mr. Ray's playing contract with Golden State expired this past season. Recently representatives of Golden State had discussions with Richard Phillips, Esq., Ray's agent, concerning the terms that might be included in Ray's new contract.

3. On June 10, Phillips called me to discuss Ray's new contract. Phillips said that the settlement hearing in

this case was scheduled for June 23. He said he hoped Ray's negotiations for his new contract could be satisfactorily concluded before then so that the objections to the settlement could be withdrawn. I told Phillips that prior business commitments, including attendance at the NBA annual meeting, made it questionable if I could meet with him until the week of June 20.

4. On June 16, 1976, Mr. Phillips came to the NBA meeting in Hyannis, Massachusetts, to negotiate Ray's contract with me. He again told me that if agreement could be reached on Ray's contract Mr. Ray's objections to the settlement would be withdrawn.

5. Thus, as the preceding conversations reflect, Ray's objections to the settlement have been interposed solely as a tactic in his present contract negotiations with Golden State.

GORDON STIRLING

Sworn to before me this
17th day of June 1976.

Notary Public

My Commission expires: February 10, 1978.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - -

E A R A N C E S:

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Michael H. Goldberg, Esq.
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Attorney for the American Basketball
Association and its member teams
other than Long Island Sports Enter-
prises, Inc. and Denver Nuggets

A P P E A R A N C E S (Continued):

John H. Boone, Esq.
Suite 420, Russ Building
235 Montgomery Street
San Francisco, California
Attorney for Wilton N. Chamberlain

CARTER, District Judge

O P I N I O N

Defendants have moved, pursuant to Rules 23(d) and 65, F.R.Civ.P., for a preliminary injunction to prevent Wilton N. Chamberlain from prosecuting an action in the United States District Court for the Central District of California entitled Wilton N. Chamberlain v. National Basketball Association, et al. (75 Civ. 4258) (the Chamberlain action) commenced December 22, 1975.

On January 9, 1976, this court granted defendants, the National Basketball Association ("NBA"), a temporary restraining order after being informed that counsel for Chamberlain was not opposed to a stay pendi[illegible] hearing on the preliminary injunction. A hearing was held on January 23, 1976, at which time the parties agreed to continue the temporary stay pending the ruling of this court.

Defendants contend that the claims asserted and the relief sought as well as the parties defendant in the Chamberlain action are substantially identical to those in this (Robertson) action in which Chamberlain is a member of the plaintiff class. They urge, therefore, that they be spared the burden of defending a duplicative action and that a preliminary injunction should issue. I agree.

FINDINGS OF FACT

This lawsuit (Robertson) was commenced by fourteen named plaintiffs, all of them players in the National Basketball Association, on behalf of themselves and all others similarly situated, on April 15, 1970, against the NBA, its member teams, and the American Basketball Association. Prior thereto, on March 15, 1970, Chamberlain authorized the National Basketball Association Players Association to commence one or more lawsuits, including claims for damages, on his behalf that would "bring about an end to any agreement among the clubs or other entities to eliminate competition among them in the acquisition of talent." Plaintiffs challenge a variety of practices that are asserted to be violations of the antitrust laws. 15 U.S.C. §§1 and 2. The challenged practices include the player draft, the reserve clause, and the reserve compensation plan. 1/

1/ This case is scheduled to go to trial June 1, 1976, but the parties have informed the court that a settlement has been reached between the plaintiffs and the NBA defendants. If that settlement is approved by the court, pursuant to Rule 23(e), F.R.Civ.P., the remaining issues to be tried will not involve claims by the NBA players against the NBA.

On February 14, 1975, the court certified Robertson to proceed as a class action under Rule 23(b)(1), F.R.Civ.P., the class to include "the approximately 365 players who are or were active players for member clubs of the NBA from the date of the commencement of this suit to the present and those who become active players prior to the date of final judgment." Robertson v. National Basketball Association, 389 F. Supp. 867, 903 (S.D.N.Y. 1975). A notice of the pendency of the action was sent to all class members, pursuant to an order of September 15, 1975. The notice warned each member that he "will be bound by an adjudication, whether favorable or unfavorable, on the merits of the issues to be litigated in this action." The notice also informed each member that he could apply to the court for leave to intervene and be represented in this case by an attorney of his choosing. Chamberlain has not denied that he was served with that notice.

On December 22, 1975, Chamberlain commenced his action. Besides the NBA, the complaint names as defendants the member clubs of the NBA, all of which are defendants in the Robertson case. The complaint in Chamberlain prays for injunctive and declaratory relief to end alleged violations of sections 1 and 2 of the Sherman Act, 15 U.S.C. §§1 and 2, and for treble damages stemming from such violations--the same relief being sought in Robertson.

In Chamberlain, as in this case, the relevant market is defined as professional basketball. Both complaints allege that the defendants' practices deprive players of earnings they would otherwise receive. The actions of defendants that are complained of are nearly identical.

In sum, the Chamberlain action is duplicative of this lawsuit. Chamberlain catalogues what are basically the same practices as those challenged in this case. Any injury from those practices can and should be asserted here. Minor variations in the restraints at issue do not constitute new antitrust claims that are outside of these proceedings. Recent violations of the antitrust laws, also, are part of this case and are to be tried, or settled, along with the older injuries.

Central to Chamberlain's California complaint is his assertion that after he had failed to play basketball for the Los Angeles Lakers during the 1973-74 season, he was informed that he could not contract with any other NBA team unless that team compensated Los Angeles. This procedure, involving the option clause and a practice known in this lawsuit as the reserve compensation plan, is also central to Robertson.

The only difference asserted by Chamberlain is that since he sat out his option year, rather than play for Los Angeles under an extension of the terms of his previous contract, he was informed that he owed a year to Los Angeles, for which that team would have to be compensated by any club that wanted to purchase his future services. It is possible that NBA officials regarded this situation as unique and felt that their response constituted a new rule. I do not share their opinion, however, and I find that what happened to Chamberlain is merely another variation on the allegedly anti-competitive practices challenged in this lawsuit.

CONCLUSIONS OF LAW

I reject Chamberlain's argument that this court lacks jurisdiction to enjoin him from prosecuting his action. Chamberlain in unquestionably a member of the plaintiff class and will reap whatever benefits accrue to the class from the settlement or judgment after trial in this case. Where there is notice and adequate class representation, absent class members are bound by the court's judgment. Hansberry v. Lee, 311 U.S. 32, 42 (1940). Even in defendant class actions, there is never a question that a court entertaining a proper class action has power to adjudicate the rights

of class members even if they are outside the territorial jurisdiction of the court when served with notice of the pendency of the action. See, e.g., Dale Electronics, Inc. v. R.C.L. Electronics, Inc., 53 F.R.D. 531, 535-36 (D. N.H. 1971); Tunstall v. Brotherhood of Locomotive Firemen and Enginemen, 148 F. 2d 403, 406 (4th Cir. 1945).

Chamberlain, however, asserts that he is not a party to this action in the sense that discovery, except for the taking of his deposition, could not be required from him. To the extent that the power of the court to mandate discovery from a class member and to grant or deny injunctive relief involving such a class member are similar in their requirement that a court have power over the person to do so, that issue has already been litigated between the parties in this lawsuit. Robertson v. National Basketball Association, 67 F.R.D. 691, 698-701 (S.D.N.Y. 1975). To the extent that a different quantum of power over the individual may be needed to guarantee potency to the injunction granted herein, this court has that power. See Kronenberg v. Hotel Governor Clinton, Inc., 281 F. Supp. 622 (S.D.N.Y. 1967); Fields v. Wolfson, 41 F.R.D. 329 (S.D.N.Y. 1967); see generally, 3B Moore, Federal Practice §23.92 (2d ed. 1975), Weeks v. Barco Oil Co., 125 F. 2d 84 (7th Cir. 1941).

If the Chamberlain case includes claims that are outside the scope of this suit, they will survive the decision or settlement of this case. After the termination of this action Chamberlain will be free to pursue any claim of right not finally determined in this class suit.

If the jurisdiction of this court to determine this action, either by trial or by court-approved settlement, is to be protected, an injunction must issue. To allow two actions so similar in nature to proceed would place an unfair burden on defendants. Were this court to countenance Chamberlain's prosecution of his California action at the same time that his authorized agents proceed before me, it is likely that other class plaintiffs will commence similar suits. 2/

2/ Another lawsuit was commenced after the Chamberlain action by named plaintiff Chester Walker. This court has already enjoined that action. See opinion and order of March 3, 1976.

Besides the onus of defending multiple suits in widely scattered courthouses, defendants, without the protection of this injunction, would face the possibility of inconsistent declaratory or injunctive mandates prescribing their future compliance with the antitrust laws. Indeed, it was the potential for such inconsistent relief that led me to certify this class action under Rule 23(b)(1), F.R.Civ.P., which does not permit class members to opt-out. Robertson v. National Basketball Association, supra, 389 F. Supp. at 901.

Defendants' motion is granted. Chamberlain is hereby enjoined and stayed from prosecuting his action in California, Wilton N. Chamberlain v. National Basketball Association, 75 Civ. 4258, pending the disposition of the Robertson case.

SO ORDERED.

Dated: New York, New York
March 31, 1976

Robert L. Carter

ROBERT L. CARTER
U.S.D.J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSCAR ROBERTSON, et al.,	:	
Plaintiffs,	:	70 Civ. 1526 (RLC)
-against-	:	
NATIONAL BASKETBALL ASSOCIATION, et al.,	:	
Defendants.	:	

MEMORANDUM OF NBA DEFENDANTS IN SUPPORT OF THE SETTLEMENT OF THE ROBERTSON CLASS ACTION AND IN OPPOSITION TO THE OBJECTIONS THERETO

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1350

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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OSCAR ROBERTSON, et al.,

Plaintiffs,

-against-

NATIONAL BASKETBALL ASSOCIATION, et al.,

Defendants.

----------x

70 Civ. 1526 (RLC)

MEMORANDUM OF NBA DEFENDANTS IN SUPPORT OF THE SETTLEMENT OF THE ROBERTSON CLASS ACTION AND IN OPPOSITION TO THE OBJECTIONS THERETO

This memorandum is submitted by the NBA defendants other than Madison Square Garden Corporation and Madison Square Garden Center, Inc. in support of the application for approval, pursuant to Rule 23(e), Fed. R. Civ. P., of the proposed settlement of the Robertson class action and in opposition to the objections to the proposed settlement interposed by Chester Walker, a named plaintiff, and Wilton N. Chamberlain, a class member.*

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* A "Notice Of Intention To Be Excluded From the Settlement, Or, In the Alternative To Object To The Settlement" was also served on behalf of Clifford Ray, a class member. However, since no affidavit or memorandum -- or indeed any explanation of the basis of or grounds for Ray's objection-- has been submitted by Ray, this memorandum will not address itself specificially to his objection. Moreover, as the accompanying affidavit of Gordon Stirling demonstrates, Ray's objection to the settlement is no more than a tactic apparently designed to enhance his bargaining position in the contract negotiations Ray's lawyer, Richard G. Phillips, is currently conducting with the Golden State Warriors.

The NBA defendants and the plaintiff class have agreed, subject to the Court's approval, to a settlement of the Robertson class action. On May 4, 1976, this Court ordered that a hearing, after notice to the class, be held on June 23, 1976 for the purpose of determining the fairness and adequacy of the proposed settlement.

The record in this case, which is now over 6 years old, is voluminous. However, the facts necessary to assist this Court in determining whether to approve the proposed settlement herein are drawn together in the accompanying affidavits of David J. Stern, Michael Burke, H. Jonathan Kovler, and Gordon Stirling, as well as the previously submitted affidavits of Peter Gruenberger, Oscar Robertson, Bob Lanier and Lawrence Fleisher.

This memorandum, those affidavits, the record in this case and the knowledge of the Court gained in supervision of this litigation confirm that the proposed settlement of the Robertson class action, negotiated at arms' length after 6 years of intense litigation and the completion of prodigious pretrial discovery, should be approved by this Court -- over the objections interposed. In Point I, infra, we demonstrate that the proposed settlement is fair, reasonable and adequate and merits approval in light of the applicable standards for

approval of class action settlements in this Circuit. In Point II, infra, we show that the procedural objections of Walker and Chamberlain, including their due process arguments, are without merit. In Point III, infra, we dispose of the other groundless objections advanced by Walker and Chamberlain.

POINT I

THE PROPOSED SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE

In determining whether to approve a class action settlement the courts seek to effectuate the public policy in favor of settlements while giving due account to the policy of protecting to the fullest the rights and interests of absent members of the class. Siegel v. Realty Equities Corp., CCH Fed. Sec. L. Rep., 1973 Decisions, ¶94,102 (S.D.N.Y. 1973); Feder v. Harrington, 58 F.R.D. 171 (S.D.N.Y. 1972). The Court should approve the settlement if it is fair, reasonable and adequate. West Virginia v. Chas. Pfizer & Co., 314 F. Supp. 710 (S.D.N.Y. 1970), aff'd, 440 F.2d 1079 (2d Cir.), cert. denied, 404 U.S. 871 (1971). See also Grunin v. International House of Pancakes, 513 F.2d 114 (8th Cir.), cert. denied, 423 U.S. 864 (1975).

The question before the Court on this application for approval is:

> ". . . whether the settlement, taken as a whole, is so unfair on its face as to preclude judicial approval." Glicken v. Bradford, 35 F.R.D. 144, 151 (S.D.N.Y. 1964), quoted in Katz v. E.L.I. Computer Systems, Inc., CCH Fed. Sec. L. Rep., 1970-71 Decisions, ¶92,994 (S.D.N.Y. 1971).

In considering the propriety of the proposed settlement, it is not the Court's function to decide disputed issues.

> "To do so would defeat the very purpose of the compromise to avoid a determination of

> the sharply contested issues and to dispense with expensive and wasteful litigation." Levin v. Mississippi River Corp., 59 F.R.D. 353, 361 (S.D.N.Y.), aff'd sub. nom. Wesson v. Mississippi River Corp., 486 F.2d 1398 (2d Cir.), cert. denied, 414 U.S. 1112 (1973).

See also City of Detroit v. Grinnell Corp., 495 F.2d 448, 456 (2d Cir. 1974); Newman v. Stein, 464 F.2d 689 (2d Cir.), cert. denied, 409 U.S. 1039 (1972); West Virginia v. Chas. Pfizer & Co., supra, 314 F. Supp. at 741; Zerkle v. Cleveland-Cliffs Iron Co., 52 F.R.D. 151 (S.D.N.Y. 1971). Moreover, the Court should not attempt to substitute its business judgment for that of the parties. See, e.g., Newman v. Stein, supra; Young v. Katz, 447 F.2d 431 (5th Cir. 1971).

As summarized in the affidavits submitted in support of the proposed settlement, the NBA defendants have agreed not only to the payment of substantial sums of money, but have agreed to modifications of the challenged practices that significantly enhance the ability of NBA players to negotiate with more than one team during their careers. There exist serious obstacles to a determination favorable to the plaintiff class of the complex issues in this case, both in respect to liability and damages. The NBA defendants have asserted throughout the proceedings herein -- and continue to assert -- that all practices challenged in the complaint are reasonable and lawful and would be upheld as such.

However, to avoid the time and expense of a trial

that could have lasted several months and an appellate process that could have lasted several years, the NBA defendants agreed to the terms of the Stipulation and Settlement Agreement. In light of the reasonableness of the original practices, the far-reaching modification of those practices (for the benefit of the NBA players) are, in the view of the NBA defendants, necessarily a fair and adequate settlement of this case, and one that should receive this Court's approval.

POINT II

WALKER'S AND CHAMBERLAIN'S PROCEDURAL OBJECTIONS ARE WITHOUT MERIT

Objectors Walker and Chamberlain have made certain procedural objections, of a vague "due process" nature, which, as we demonstrate below, are completely without merit. Furthermore, a second procedural objection -- also without merit insofar as it has been raised by Walker and Chamberlain -- addressed to the certification of the Robertson action as a Rule 23(b)(1) class action, is not even a timely objection at this stage of the proceedings.

A. Walker and Chamberlain Have Been Fully Afforded Procedural Due Process Throughout the Robertson Action

As the federal courts have made clear, the touchstones of due process in a class action context are notice and adequacy of representation. In re Four Seasons Securities Laws Litigation, 502 F.2d 834, 842 (10th Cir.), cert. denied, 419 U.S. 1034 (1974). See also Eisen v. Carlisle & Jacquelin, 417 U.S. 156 (1974); Hansberry v. Lee, 311 U.S. 32 (1940). Rule 23 -- which was promulgated by the Supreme Court -- and its application by this Court in the Robertson action fully comport with the due process

standards of the Fifth Amendment to the United States Constitution.*

Walker and Chamberlain, insofar as they assert procedural due process objections to the settlement herein, misconceive and misapply the due process test as it applies to settlements of complex multi-party class actions. Rule 23(e) provides for the essential prerequisites of due process -- notice and adequacy of representation. Notice of the proposed settlement was given to all members of the Robertson class and the named plaintiffs, including Walker and Chamberlain. Adequacy of representation is assured at the settlement stage of class actions by the requirement that settlements of class actions be approved by the District Court. The District Court is charged with assuring the fairness and adequacy of the settlement, particularly insofar as the interests of absent class members are concerned. Grunin v. International House of Pancakes, 513 F.2d 114, 123 (8th Cir.), cert. denied, 423 U.S. 864 (1975); Percodani v. Riker-Maxson Corp., 50 F.R.D. 473, 478

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* It should be remembered that "[t]here is a strong presumption that the rule [Rule 23] is valid." Wetzel v. Liberty Mut. Ins. Co., 508 F.2d 239, 257 n.38 (3d Cir.), cert. denied, 421 U.S. 1011 (1975). See also Hanna v. Plumer, 380 U.S. 460, 471 (1965); H F G Co. v. Pioneer Publishing Co., 162 F.2d 536, 539 (7th Cir. 1947); Helms v. Richmond-Petersburg Turnpike Authority, 52 F.R.D. 530, 531 (E.D. Va. 1971); Philadelphia Elec. Co. v. Anaconda Am. Brass Co., 43 F.R.D. 452, 460 (E.D. Pa. 1968); Gertler v. United States, 18 F.R.D. 307, 309 (S.D.N.Y. 1955).

(S.D.N.Y. 1970), aff'd sub nom. Farber v. Riker-Maxson Corp., 442 F.2d 457 (2d Cir. 1971).

Moreover, adequacy of representation is further assured as to the Robertson settlement by the settlement hearing, of which all class members and named plaintiffs were notified and at which any class member or named plaintiff -- including Walker and Chamberlain -- may appear in person or by counsel of his own choosing and may be heard with respect to the settlement of this action. Thus, the requisite adequacy of representation at the settlement stage of this class action is fully satisfied by the requirement of Court approval and by the opportunity of all class members and named plaintiffs to be heard by the Court at a hearing with respect to such approval.*

Objector Walker cites Hansberry v. Lee in support of his due process attack upon the settlement in the Robertson action (Walker Memorandum, pp. 4, 5-6). However, Walker's reliance on Hansberry is totally misplaced.

* The Supreme Court in Eisen v. Carlisle & Jacquelin, 417 U.S. 156, 174 (1974) has recently observed in commenting upon the application in a class action context of the due process standards enunciated in Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950), that "[t]he Court observed [in Mullane] that notice and an opportunity to be heard were fundamental requisites of the constitutional guarantee of procedural due process." As discussed above, this Court has afforded all of the named plaintiffs and class members in the Robertson action -- including Walker and Chamberlain -- the requisite notice and opportunity to be heard.

Hansberry held that an absent member of a class will not be bound by the judgment of a court in a class action if such absent class member was not adequately represented. However, even if Walker were merely a member of the class -- rather than a named plaintiff -- he would not be an absent member of the class at the settlement stage of this case. As the Supreme Court stated in Hansberry:

> "...this Court is justified in saying that there has been a failure of due process only in those cases where it cannot be said that the procedure adopted, fairly insures the protection of the interests of absent parties who are to be bound by it." 311 U.S. at 42 (emphasis added).

Walker has been given a full and fair opportunity to evaluate the proposed settlement of the Robertson action and to interpose his objections thereto. Interrogatories served by counsel representing Walker as an objector -- although highly unusual and of questionable propriety at this stage of the proceedings -- were promptly answered by the NBA defendants. Plaintiffs' counsel has made available for Walker's review all of the documents, interrogatory answers and deposition transcripts accumulated in the course of discovery. Furthermore, Walker will have the opportunity to be heard through counsel of his own choosing at the

settlement hearing. Accordingly, not only has the procedure adopted by the Court with respect to the settlement of the Robertson action been fair to Walker, but also Walker is most clearly not an absent member of the class at the settlement stage of these proceedings. As the court in American Employers' Insurance Co. v. King Resources Co., 20 F.R. Serv. 2d 161 (D. Colo. 1975), held in response to a strikingly similar Hansberry-based due process objection interposed at the settlement stage of a Rule 23(b)(1) class action*, such "argument fails to acknowledge that in a class action settlement, an objecting party, can never be an absent member of the class." 20 F.R. Serv. 2d at 164 (emphasis in original).** See also Badgett v. International Brotherhood

* The class in American Employers' Ins. Co. had been certified as both a Rule 23(b)(1) and (b)(2) class action.

** Additionally, it should be noted that the named plaintiffs and class members in the Robertson action -- including, of course, Walker and Chamberlain -- have been afforded due process throughout the proceedings herein. In fact, the Robertson class action can fairly be characterized as a unique class action because of its cohesiveness and the closely coordinated representation afforded all of the named plaintiffs and class members throughout these proceedings.

Beginning with the commencement of this action six years ago, specifically authorized in writing by all of the players in the NBA class members and named plaintiffs alike -- and continuing through the many letters sent to and meetings held with the NBA players -- class members and named plaintiffs alike -- the class has been apprised of the developments and progress of the Robertson action at each stage of the proceedings. In addition, as the Second Circuit has recognized to be a requirement of due process, each class member and named plaintiff received a court-ordered Notice of Pendency of this action as a Rule 23(b)(1) class action. See Eisen v. Carlisle

of Electrical Workers, 21 F.R. Serv. 2d 173 (N.D. Ohio 1975).

This Court, as well, in response to a similar Hansberry-based argument in In re Antibiotic Antitrust Actions, 333 F. Supp. 296 (S.D.N.Y.), aff'd, 450 F.2d 1119 (2d Cir. 1971), has held that the representation of class members by an attorney of their own choosing at the settlement hearing of an antitrust class action satisfied their due process rights. The following language from Hansberry proved dispositive of the due process argument:

> "'...members of a class not present as parties to the litigation may be bound by the judgment...where they actually participate in the conduct of the litigation...'". 333 F. Supp. at 298 (emphasis in original), quoting from 311 U.S. at 43.

Just as the fact that the class members in In re Antibiotic Antitrust Actions were represented by counsel of their own choosing at the settlement hearing

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**(footnote continued from previous page)

& Jacquelin, 391 F.2d 555, 564 (2d Cir. 1968). That notice advised each class member and named plaintiff that he could appear in this action by separate counsel if he so desired. In sum, if ever there was a class action in which it could fairly be said that the class had been adequately represented and afforded due process, it is the Robertson action. See also 389 F. Supp. 867, 898-900 and this Court's Order, dated and filed June 16, 1976, denying Walker's motion to postpone the settlement hearing date.

therein, Walker and Chamberlain are represented at the settlement stage of these proceedings by counsel of their own choosing and will have a full and fair opportunity to be heard at the settlement hearing.* Accordingly, the due process rights of Walker and Chamberlain have been more than amply satisfied, and their due process objection is entirely without merit.

B. The Objection to the Class Certification is Untimely

On February 14, 1975, this Court certified the Robertson action as a Rule 23(b)(1) class action. No objection to such class action certification was interposed by Walker and Chamberlain at that time.

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* Moreover, the participation of Walker and Chamberlain throughout the proceedings herein goes far beyond that held sufficient for Hansberry purposes in In re Antibiotic Antitrust Actions, supra. As discussed above, Walker and Chamberlain can in no sense be considered absent class members prior to the settlement stage of these proceedings, as the class members in In re Antibiotic Antitrust Actions, supra, had been. In addition to the facts discussed in the footnote on pp. 11-12 above it should further be noted that both Walker and Chamberlain had their depositions taken as part of the discovery in this action, that the attorney who represents Walker as an objector, Richard Phillips, also had his deposition taken in the Robertson action, and that Walker answered interrogatories propounded to him as a named plaintiff in this action.

Pursuant to an order of this Court dated September 15, 1975, all class members and named plaintiffs -- including Walker and Chamberlain -- were notified of the pendency of the Robertson action as a Rule 23(b)(1) class action and advised that they could appear in this action by separate counsel if they so desired. Walker and Chamberlain neither objected to the class certification, nor asked to appear by separate counsel at that time. This was understandable, since they should not have had any objection to the very class action, the commencement of which they specifically authorized in writing.

Moreover, at the settlement stage every class action in which notice of the class certification has been sent to the class at an earlier date -- be it a Rule 23(b)(1), (b)(2) or (b)(3) class action -- is procedurally identical. Rule 23(e), which was promulgated by the Supreme Court to govern the settlement phase of class actions, does not make any distinction between the three types of class actions. The opportunity to opt out of a Rule 23(b)(3) class action is afforded to class members at the notice of pendency stage, not at the notice of settlement stage.

Notices of proposed settlement sent pursuant to Rule 23(e) do not -- even in a Rule 23(b)(3) class action --

include a provision permitting class members to opt out. See, e.g., 1 Pt. 2 J. Moore, Federal Practice, Manual for Complex Litigation, Appendix 1.45, Sample Order and Notice of Proposed Settlement, pp. 212-217 (2d ed. 1975). In fact, were an opportunity to opt out afforded a class member or named plaintiff at the settlement stage of a class action in which the notice of pendency had been sent to the class at an earlier date, such procedure would clearly be improper. It would, in effect, invite "a return to one-way intervention under a new guise." Philadelphia Electric Co. v. Anaconda American Brass Co., 43 F.R.D. 452, 459 (E.D. Pa. 1968). See also In Re Four Seasons Securities Laws Litigation, 502 F.2d 834, 843 (10th Cir.), cert. denied, 419 U.S. 1034 (1974). As the Advisory Committee Note to Rule 23 makes clear, the 1966 amendments were specifically intended to eliminate this possibility. 39 F.R.D. 69, 105-106 (1966). See also International House of Pancakes Franchise Litigation, 1976-1 Trade Cas., ¶60,917 (8th Cir. 1976). Accordingly, this Court should overrule Walker's and Chamberlain's procedural objections.

POINT III

THE OTHER OBJECTIONS RAISED BY WALKER AND CHAMBERLAIN ARE EQUALLY WITHOUT MERIT

Chamberlain raises an objection to the covenant not to sue contained in the Settlement Agreement. (Chamberlain memorandum at pp. 1-2) However, such a covenant not to sue is a standard clause in class action settlement agreements approved by this Court.* Chamberlain also objects to the appointment of a special master in the Settlement Agreement. (Chamberlain memorandum at p. 2) Rule 53, Fed. R. Civ. P., and the applicable authorities with respect to the appointment of masters in the federal courts make it clear that the appointment of this special master is entirely proper.**

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* In addition to the cases cited in the Stern affidavit (¶ 24), see also Three Rivers Motors Co. v. Ford Motor Co., 522 F.2d 885, 896 (3d Cir. 1975); Martina Theatre Corp. v. Schine Chain Theatres, Inc., 278 F.2d 798 (2d Cir. 1960); Hillsdale, Inc. v. U.S. Gypsum Co., 1975-1 Trade Cas., ¶60,243 (S.D.N.Y. 1975); Wainwright v. Kraftco Corp., 58 F.R.D. 9 (N.D. Ga. 1973); Goldlawr, Inc. v. Shubert, 32 F.R.D. 467 (S.D.N.Y. 1963).

** See, e.g., Gautreaux v. Chicago Housing Authority, 384 F. Supp. 37 (N.D. Ill. 1974), mandamus denied sub. nom Chicago Housing Authority v. Austin, 511 F.2d 82 (7th Cir. 1975); United States v. Greater Buffalo Press, Inc., 1973-2 Trade Cas., ¶74,602 (W.D.N.Y. 1973); Sunbeam Corp. v. Masters, Inc., 124 F. Supp. 155 (S.D.N.Y. 1954); United States v. Switzer Bros., Inc., 1953 Trade Cas., ¶67,598, at 68,880 (N.D. Cal. 1953). See also DeCosta v. Columbia Broadcasting Sys., Inc., 520 F.2d 499 (1st Cir. 1975), cert. denied, U.S. ___, 44 U.S.L.W. 3416 (1976); NLRB v. Teamsters Local 282, 428 F.2d 994 (2d Cir. 1970); Elec. Pipe Line, Inc. v. Fluid Sys., Inc., 250 F.2d 697 (2d Cir. 1957).

The essence of the objections of both Walker and Chamberlain is an effort by these two players alone, from among the almost five hundred players who are named plaintiffs and class members in the Robertson action, to defeat the comprehensive settlement herein because it does not permit their exclusion.

The particular histories of both Walker and Chamberlain demonstrate why such exclusion would be unacceptable. Walker and Chamberlain would have this Court in effect voluntarily dismiss the Robertson action with respect to themselves in order to prosecute their separate actions as to matters that this Court has ruled -- on several previous occasions -- are part of the Robertson case and thereby deprive the NBA, its teams and its players of the prime benefit they may get from the settlement -- an end to litigation.

Directly in point is Erie-Lackawanna R.R. v. United States, 279 F. Supp. 303 (S.D.N.Y. 1967) in which this Court held:

> "While obviously no plaintiff should be forced to litigate against his will, that does not mean that he is wholly free at his own volition to stop litigation in the court of his initial choice and begin again in another, regardless of the interests of other parties and the public interest." 279 F. Supp. at 307.

In that case, plaintiffs, who had "brought their actions to enjoin [a] merger" in the Southern District of New York, were

not permitted to discontinue those actions in order to prosecute subsequent lawsuits filed in other federal district courts. Id. at 307.

> "The idea that litigants...may invoke the jurisdiction of one federal court, require it to expend its energies in becoming familiar with the subject-matter, obtain interlocutory relief..., and then take their grievances to another federal court which they consider may be more favorable while their complaints remain pending for final disposition, does not commend itself in general...."Id. at 306-307.

Similarly, in Harvey Aluminum, Inc. v. American Cyanamid Co., 15 F.R.D. 14 (S.D.N.Y. 1953), this Court, in vacating plaintiffs' notice of voluntary dismissal, held:

> "The essential question is whether the dismissal of the action will be unduly prejudicial to the defendants; if so, plaintiffs' motion should be denied.... Where it is clear that the opposing litigant will be unduly prejudiced by the dismissal of the action, the Court's discretion should be refused.... I am persuaded that matters have progressed here to such a point that a dismissal of this action would be unduly prejudicial to the defendants...". 15 F.R.D. at 18.

See also Ferguson v. Eakle, 492 F.2d 26 (3d Cir. 1974); Pace v. Southern Express Co., 409 F.2d 331 (7th Cir. 1969); Cincinnati Traction Building Co. v. Pullman-Standard Car Manufacturing Co., 25 F. Supp. 322 (D. Del. 1938).

If the NBA defendants could not have relied on the class action certification herein, there is no question that

the proposed settlement would not have been reached. There must be some guarantee that the vast expenditure of time and money by the defendants throughout the 6 years of this litigation is not something that can be foisted upon them again by the whims of objectors such as Walker and Chamberlain.

The Second Circuit has made it clear that a representative action, like the class action herein, can be settled over the objections of a named plaintiff. Saylor v. Lindsley, 456 F. 2d 896, 899 (2d Cir. 1972). Because of the evident prejudice to the NBA defendants -- not to mention the prejudice to the other named plaintiffs and class members -- this Court should approve the proposed settlement over the objections of Walker and Chamberlain and rebuff their efforts to defeat the peace that has come to professional basketball.

CONCLUSION

For the foregoing reasons, as well as those set forth in the accompanying affidavits, the proposed settlement of the Robertson class action should be approved and the objections thereto overruled.

Respectfully submitted,

PROSKAUER ROSE GOETZ & MENDELSOHN

By David J. Stern
Attorneys for all NBA Defendants except Madison Square Garden Corporation and Madison Square Garden Center, Inc.

Of Counsel:

David J. Stern
Michael A. Cardozo
Jeffrey A. Mishkin
Richard L. Wasserman

June 22, 1976

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

OSCAR ROBERTSON, et al.,

Plaintiffs,

- against -

NATIONAL BASKETBALL ASSOCIATION,

Defendants.

----------x

70 Civ. 1526 (RLC)

SETTLEMENT FUND ALLOCATION AND PAYMENT SCHEDULE

WEIL, GOTSHAL & MANGES
767 FIFTH AVENUE
NEW YORK, N. Y. 10022

1371

Oscar Robertson, et al. v. National Basketball Association, et al., 70 Civ. 1526 (RLC)

Total Settlement Fund: $4.3 million
Total Units: 2162.50
Unit Value: $1,988.4394

SETTLEMENT FUND ALLOCATION AND PAYMENT SCHEDULE

Class Member	Units	Total Share	Annual Installment
1. Abdul-Aziz, Zaid	7.75	$ 15,410.41	$ 1,926.30
2. Abdul-Jabbar, Kareem	6	$ 11,930.64	$ 1,491.33
3. Abdul-Rahman, Mahdi	14	$ 27,838.15	$ 3,479.76
4. Adams, Alvan	.50	$ 994.22	$ 124.28
5. Adams, Don	4	$ 7,953.76	$ 994.22
6. Adelman, Rick	7.50	$ 14,913.30	$ 1,864.16
7. Allen, Lucius	6	$ 11,930.64	$ 1,491.33
8. Allison, Odis	1	$ 1,988.44	$ 248.56
9. Anderson, Cliff	6	$ 11,930.64	$ 1,491.33
10. Anderson, Dan	1	$ 1,988.44	$ 248.56
11. Anderson, Jerome	.50	$ 994.22	$ 124.28
12. Anderzunas, Wally	2	$ 3,976.88	$ 497.11
13. Archibald, Nate	4	$ 7,953.76	$ 994.22
14. Ard, James	1	$ 1,988.44	$ 248.56
15. Arnzen, Bob	1	$ 1,988.44	$ 248.56
16. Arthurs, John	1	$ 1,988.44	$ 248.56
17. Attles, Alvin	13	$ 25,849.71	$ 3,231.21
18. Awtrey, Dennis	4	$ 7,953.76	$ 994.22
19. Bailey, Gus	1	$ 1,988.44	$ 248.56
20. Bantom, Mike	1.50	$ 2,982.66	$ 372.83
21. Barnes, Jim	11.50	$ 22,867.05	$ 2,858.38
	94.25	$187,410.44	$23,42632

Class Member	Units	Total Share	Annual Installment
22. Barnett, Jim	15	$ 29,826.58	$ 3,728.31
23. Barnett, Richard	13.75	$ 27,341.04	$ 3,417.62
24. Barr, Moe	1	$ 1,988.44	$ 248.56
25. Barry, Rick	8	$ 15,907.52	$ 1,988.44
26. Bartolome, Vic	1	$ 1,988.44	$ 248.56
27. Baskerville, Jerry	.50	$ 994.22	$ 124.28
28. Baum, John	2	$ 3,976.88	$ 497.11
29. Baylor, Elgin	12.50	$ 24,855.49	$ 3,106.94
30. Beard, Alfred "Butch"	5	$ 9,942.20	$ 1,242.78
31. Beaty, Zelmo	11.50	$ 22,867.05	$ 2,858.38
32. Behagen, Ron	1.50	$ 2,982.66	$ 372.83
33. Bell, Dennis	1	$ 1,988.44	$ 248.56
34. Bellamy, Walter	14.25	$ 28,335.25	$ 3,541.90
35. Benbow, Leon	1	$ 1,988.44	$ 248.56
36. Bibby,C. Henry	2	$ 3,976.88	$ 497.11
37. Bigelow, Bob	.50	$ 994.22	$ 124.28
38. Bing, David	15	$ 29,826.58	$ 3,728.31
39. Black, Tom	1	$ 1,988.44	$ 248.56
40. Block, John	15	$ 29,826.58	$ 3,728.31
41. Boerwinkle, Tom	8	$ 15,907.52	$ 1,988.44
42. Boozer, Robert	12	$ 23,861.27	$ 2,982.66
	141.50	$281,364.14	$35,170.50

Class Member	Units	Total Share	Annual Installment
43. Boswell, Tom	.50	$ 994.22	$ 124.28
44. Bowman, Nate	12	$ 23,861.27	$ 2,982.66
45. Boyd, Fred	2	$ 3,976.88	$ 497.11
46. Boyd, Ken	.25	$ 497.11	$ 62.14
47. Bracey, Steve	1.50	$ 2,982.66	$ 372.83
48. Bradley, William	11	$ 21,872.83	$ 2,734.10
49. Brewer, Jim	1.50	$ 2,982.66	$ 372.83
50. Bridgeman, Junior	.50	$ 994.22	$ 124.28
51. Bridges William	14.50	$ 28,832.36	$ 3,604.04
52. Brisker, John	1.50	$ 2,982.66	$ 372.83
53. Bristow, Allan	1	$ 1,988.44	$ 248.56
54. Brokaw, Gary	1	$ 1,988.44	$ 248.56
55. Brown, Fred	3	$ 5,965.32	$ 745.67
56. Brown, John	1.50	$ 2,982.66	$ 372.83
57. Brown, Roger	.50	$ 994.22	$ 124.28
58. Bryant, Emmette	13	$ 25,849.71	$ 3,231.21
59. Bryant, Joe	.50	$ 994.22	$ 124.28
60. Burleson, Tom	1	$ 1,988.44	$ 248.56
61. Caldwell, Joe	11	$ 21,872.83	$ 2,734.10
62. Calhoun, Dave "Corky"	2	$ 3,976.88	$ 497.11
63. Cannon, Larry	.25	$ 497.11	$ 62.14
	80	$ 159,075.14	$ 19,884.40

Class Member	Units	Total Share	Annual Installment
64. Carlson, Al	.25	$ 497.11	$ 62.14
65. Carr, Austin	3	$ 5,965.32	$ 745.67
66. Carter, Fred	6	$ 11,930.64	$ 1,491.33
67. Catchings, Harvey	1	$ 1,988.44	$ 248.56
68. Catlett, Sid	.50	$ 994.22	$ 124.28
69. Chamberlain, Bill	.50	$ 994.22	$ 124.28
70. Chamberlain, Wilt	13.50	$ 26,843.93	$ 3,355.49
71. Chambers, Jerry	8	$ 15,907.52	$ 1,988.44
72. Chaney, Don	7.50	$ 14,913.30	$ 1,864.16
73. Chappell, Len	12	$ 23,861.27	$ 2,982.66
74. Charles, Ken	1.50	$ 2,982.66	$ 372.83
75. Chenier, Phil	3	$ 5,965.32	$ 745.67
76. Chones, Jim	1	$ 1,988.44	$ 248.56
77. Christian, Bob	3	$ 5,965.32	$ 745.67
78. Clark, Archie	15	$ 29,826.58	$ 3,728.31
79. Cleamons, Jim	3	$ 5,965.32	$ 745.67
80. Clemens, Barry	15	$ 29,826.58	$ 3,728.31
81. Clyde, Benjamin	.50	$ 994.22	$ 124.28
82. Coleman, E. C.	1.50	$ 2,982.66	$ 372.83
83. Collins, Doug	1.50	$ 2,982.66	$ 372.83
84. Collins, Jimmy	1.50	$ 2,982.66	$ 372.83
	98.75	$196,358.39	$ 24,544.80

Class Member	Units	Total Share	Annual Installment
85. Cooke, Joe	1	$ 1,988.44	$ 248.56
86. Counts, Mel	15	$ 29,826.58	$ 3,728.31
87. Cousy, Bob	1	$ 1,988.44	$ 248.56
88. Cowens, Dave	4	$ 7,953.76	$ 994.22
89. Crawford, Fred	12	$ 23,861.27	$ 2,982.66
90. Creighton, Jim	.50	$ 994.22	$ 124.28
91. Cross, Pete	2.50	$ 4,971.10	$ 621.39
92. Cunningham, Dick	7.50	$ 14,913.30	$ 1,864.16
93. Cunningham, William	14	$ 27,838.14	$ 3,479.76
94. Dandridge, Bob	6	$ 11,930.64	$ 1,491.33
95. D'Antoni, Mike	1.25	$ 2,485.55	$ 310.69
96. Dark, Jesse	.50	$ 994.22	$ 124.28
97. Davis, Bob	.25	$ 497.11	$ 62.14
98. Davis, Charlie	1.75	$ 3,479.77	$ 434.97
99. Davis, Dwight	2	$ 3,976.88	$ 497.11
100. Davis, Jim	10.50	$ 20,878.61	$ 2,609.83
101. Davis, Mel	1.50	$ 2,982.66	$ 372.83
102. Davis, "Mickey" Ed	2	$ 3,976.88	$ 497.11
103. Davis, Michael	4.25	$ 8,450.87	$ 1,056.36
104. Dawkins, Darryl	.50	$ 994.22	$ 124.28
105. DeBusschere, David	14	$ 27,838.14	$ 3,479.76
	102.00	$202,820.80	$ 25,352.59

Class Member	Units	Total Share	Annual Installment
106. Derline, Rod	1	$ 1,988.44	$ 248.56
107. Dickey, Derrek	1.50	$ 2,982.66	$ 372.83
108. Dierking, Connie	12	$ 23,861.27	$ 2,982.66
109. DiGregorio, Ernie	1.50	$ 2,982.66	$ 372.83
110. Dinkins, Jackie	.50	$ 994.22	$ 124.28
111. Dinwiddie, Bill	6.50	$ 12,924.86	$ 1,615.61
112. Dischinger, Terry	9.50	$ 18,890.17	$ 2,361.27
113. Downing, Steve	.75	$ 1,491.33	$ 186.42
114. Drew, John	1	$ 1,988.44	$ 248.56
115. Driscoll, Ed "Terry"	3.25	$ 6,462.43	$ 807.80
116. Dudley, Charles	1.25	$ 2,485.55	$ 310.69
117. Durret, Ken	2.50	$ 4,971.10	$ 621.39
118. DuVal, Dennis	.75	$ 1,491.33	$ 186.42
119. Eberhard, Al	1	$ 1,988.44	$ 248.56
120. Egan, John	13	$ 25,849.71	$ 3,231.21
121. Ellis, Joseph	14	$ 27,838.14	$ 3,479.76
122. Ellis, LeRoy	15	$ 29,826.58	$ 3,728.31
123. English, Claude	.50	$ 994.22	$ 124.28
124. English, Scott	.50	$ 994.22	$ 124.28
125. Erickson, Keith	15	$ 29,826.58	$ 3,728.31
126. Fernsten, Eric	.50	$ 994.22	$ 124.28
127. Fillmore, Greg	1.50	$ 2,982.66	$ 372.83
	103.00	$204,809.23	$ 25,601.14

Class Member	Units	Total Share	Annual Installment
128. Finkel, Henry	14.50	$ 28,832.36	$ 3,604.04
129. Fogle, Larry	.25	$ 497.11	$ 62.14
130. Fontaine, Levi	1	$ 1,988.44	$ 248.56
131. Ford, Chris	2	$ 3,976.88	$ 497.11
132. Ford, Don	.50	$ 994.22	$ 124.28
133. Ford, Jake	1.50	$ 2,982.66	$ 372.83
134. Foster, Fred	7.50	$ 14,913.30	$ 1,864.16
135. Fox, Harold	.25	$ 497.11	$ 62.14
136. Fox, Jim	11	$ 21,872.83	$ 2,734.10
137. Frazier, Walt	11	$ 21,872.83	$ 2,734.10
138. Free, Lloyd	.50	$ 994.22	$ 124.28
139. Freeman, Don	.50	$ 994.22	$ 124.28
140. Freeman, Gary	1	$ 1,988.44	$ 248.56
141. Freeman, Rod	.50	$ 994.22	$ 124.28
142. Fryer, Bernie	1	$ 1,988.44	$ 248.56
143. Gambee, Dave	11	$ 21,872.83	$ 2,734.10
144. Garrett, Eldo	5	$ 9,942.20	$ 1,242.78
145. Garrett, Rowland	2	$ 3,976.88	$ 497.11
146. Garvin, Jim	.25	$ 497.11	$ 62.14
147. Giannelli, John	2	$ 3,976.88	$ 497.11
148. Gibbs, Dick	3	$ 5,965.32	$ 745.67
149. Gilliam, Herman	6	$ 11,930.64	$ 1,491.33
	82.25	$ 163,549.14	$ 20,443.66

	Class Member	Units	Total Share	Annual Installment
150.	Gilmore, Walt	1	$ 1,988.44	$ 248.56
151.	Glover, Clarence	1	$ 1,988.44	$ 248.56
152.	Goodrich, Gail	15	$ 29,826.58	$ 3,728.31
153.	Grant, Travis	.75	$ 1,491.33	$ 186.42
154.	Gray, Leonard	1	$ 1,988.44	$ 248.56
155.	Greacen, Robert	2.50	$ 4,971.10	$ 621.39
156.	Green, John	13.50	$ 26,843.93	$ 3,355.49
157.	Green, Lamar	5.25	$ 10,439.31	$ 1,304.91
158.	Green, Luther	.25	$ 497.11	$ 62.14
159.	Greer, Harold	13.50	$ 26,843.93	$ 3,355.48
160.	Gregor, Gary	6.25	$ 12,427.75	$ 1,553.47
161.	Grevey, Kevin	.50	$ 994.22	$ 124.28
162.	Gross, Bob	.50	$ 994.22	$ 124.28
163.	Guerin, Richard	7	$ 13,919.08	$ 1,739.89
164.	Guokas, Matt	15	$ 29,826.58	$ 3,728.31
165.	Hairston, Al	3	$ 5,965.32	$ 745.67
166.	Hairston, Harold	14.50	$ 28,832.36	$ 3,604.04
167.	Hairston, Lindsay	.50	$ 994.22	$ 124.28
168.	Halimon, Shaler	5.50	$ 10,936.42	$ 1,367.05
169.	Halliburton, Jeff	1.50	$ 2,982.66	$ 372.83
170.	Hankinson, Phil	1	$ 1,988.44	$ 248.56
		109.00	$216,739.88	$27,092.48

	Class Member	Units	Total Share	Annual Installment
171.	Hansen, Glenn	.50	$ 994.22	$ 124.28
172.	Harris, Arthur	5.50	$ 10,936.42	$ 1,367.05
173.	Harris, Bernard	.25	$ 497.11	$ 62.14
174.	Haskins, Clem	11	$ 21,872.83	$ 2,734.10
175.	Havl[illegible] John	15	$ 29,826.58	$ 3,728.31
176.	Hawes, Steve	1	$ 1,988.44	$ 248.56
177.	Hawkins, Connie	6	$ 11,930.64	$ 1,491.33
178.	Hawkins, Robert	.50	$ 994.22	$ 124.28
179.	Hawthorne, Nate	1.50	$ 2,982.66	$ 372.83
180.	Hayes, Elvin	8	$ 15,907.52	$ 1,988.44
181.	Haywood, Spencer	4	$ 7,953.76	$ 994.22
182.	Heany, Brian	1	$ 1,988.44	$ 248.56
183.	Heard, Gar	4	$ 7,953.76	$ 994.22
184.	Henderson, Thomas	1	$ 1,988.44	$ 248.56
185.	Henry, Al	1.50	$ 2,982.66	$ 372.83
186.	Hetzel, Fred	12	$ 23,861.27	$ 2,982.66
187.	Hewitt, William	6.75	$ 13,421.97	$ 1,677.75
188.	Hilton, Fred	1.50	$ 2,982.66	$ 372.83
189.	Holland, Wilbur	.50	$ 994.22	$ 124.28
190.	Hollins, Lionel	.50	$ 994.22	$ 124.28
191.	Holt, A.W.	.50	$ 994.22	$ 124.28
192.	Hosket, Wilmer(Bill)	6	$ 11,930.64	$ 1,491.33
193.	Howard, Greg	2	$ 3,976.88	$ 497.11
		90.50	$179,953.78	$22,494.23

	Class Member	Units	Total Share	Annual Installment
194.	Howell, Bailey	12	$ 23,861.27	$ 2,982.66
195.	Hudson, Louis	15	$ 29,826.58	$ 3,728.31
196.	Hummer, John	4	$ 7,953.76	$ 994.22
197.	Hyder, Greg	1	$ 1,988.44	$ 248.56
198.	Imhoff, Darrall	13	$ 25,849.71	$ 3,231.21
199.	Ingelsby, Tom	.50	$ 994.22	$ 124.28
200.	Jackson, Gregg	.50	$ 994.22	$ 124.28
201.	Jackson, Lucius	13	$ 25,849.71	$ 3,231.21
202.	Jackson, Phil	11	$ 21,872.83	$ 2,734.10
203.	Jackson, Wardell	.50	$ 994.22	$ 124.28
204.	James, Aaron	1	$ 1,988.44	$ 248.56
205.	Johnson, Charles	2	$ 3,976.88	$ 497.11
206.	Johnson, George E.	1.25	$ 2,485.55	$ 310.69
207.	Johnson, George T.	2	$ 3,976.88	$ 497.11
208.	Johnson, Gus	13.25	$ 26,346.82	$ 3,293.35
209.	Johnson, John	4	$ 7,953.76	$ 994.22
210.	Johnson, Neil	11	$ 21,872.83	$ 2,734.10
211.	Johnson, Ollie	2	$ 3,976.88	$ 497.11
212.	Johnson, Rich	4.50	$ 8,947.98	$ 1,118.50
213.	Johnson, Wallace	1.00	$ 1,988.44	$ 248.56
214.	Jones, Dwight	1.50	$ 2,982.66	$ 372.83
		114.00	$226,682. 08	$28,335.25

	Class Member	Units	Total Share	Annual Installment
215.	Jones, Jake	.50	$ 994.22	$ 124.28
216.	Jones, James	1	$ 1,988.44	$ 248.56
217.	Jones, Ryan (Nick)	5	$ 9,942.20	$ 1,242.78
218.	Jones, Steve	.50	$ 994.22	$ 124.28
219.	Jones, Wali	13.75	$ 27,341.04	$ 3,417.62
220.	Jones, Walter "Larry"	.50	$ 994.22	$ 124.28
221.	Kauffman, Robert	7.50	$ 14,913.30	$ 1,864.16
222.	Kelley, Rich	.50	$ 994.22	$ 124.28
223.	Kelso, Ben	.50	$ 994.22	$ 124.28
224.	Kendrick, Frank	.25	$ 497.11	$ 62.14
225.	Kennedy, Joe	3	$ 5,965.32	$ 745.67
226.	Killum, Earnest	.50	$ 994.22	$ 124.28
227.	Kimball, Toby	14.25	$ 28,335.25	$ 3,541.90
228.	King, James	13.50	$ 26,843.93	$ 3,355.48
229.	Knight, Ron	2	$ 3,976.88	$ 497.11
230.	Kojis, Donald	14.50	$ 28,832.36	$ 3,604.04
		77.75	$154,601.15	$19,325.14

	Class Member	Units	Total Share	Annual Installment
231.	Komives, Howard	14	$ 27,838.14	$ 3,479.76
232.	Kosmalski, Len	.75	$ 1,491.33	$ 186.42
233.	Kozelko, Tom	1.50	$ 2,982.66	$ 372.83
234.	Kropp, Tom	.50	$ 994.22	$ 124.28
235.	Kuberski, Steve	6	$ 11,930.64	$ 1,491.33
236.	Kunnert, Kevin	1.50	$ 2,982.66	$ 372.83
237.	Kupec, C. J.	.50	$ 994.22	$ 124.28
238.	Lacey, Sam	4	$ 7,953.76	$ 994.22
239.	Lambert, John	.50	$ 994.22	$ 124.28
240.	Lanier, Robert	4	$ 7,953.76	$ 994.22
241.	Lantz, Stuart	8	$ 15,907.52	$ 1,988.44
242.	Laskowski, John	.50	$ 994.22	$ 124.28
243.	Layton, Dennis	1.75	$ 3,479.77	$ 434.97
244.	Leaks, Manny	1	$ 1,988.44	$ 248.56
245.	Lee, Clyde	15	$ 29,826.58	$ 3,728.31
246.	Lee, Greg	.25	$ 497.11	$ 62.14
247.	Lee, Russell	1.25	$ 2,485.55	$ 310.69
248.	Lewis, Bob	8	$ 15,907.52	$ 1,988.44
249.	Ligon, Bill	.50	$ 994.22	$ 124.28
250.	Long, Paul	7	$ 13,919.08	$ 1,739.76
251.	Loughery, Kevin	13.50	$ 26,843.93	$ 3,355. 48
252.	Love, Robert	15	$ 29,826.58	$ 3,728. 31
253.	Love, Stanley	2.50	$ 4,971.10	$ 621.39
		107.50	$213,757.23	$26,719.50

Class Member	Units	Total Share	Annual Installment
254. Lowery, Charles	.50	$ 994.22	$ 124.28
255. Lucas, Jerry	14	$ 27,838.14	$ 3,479.76
256. Lumkin, Phil	1	$ 1,988.44	$ 248.56
257 Lynn, Mike	2.50	$ 4,971.10	$ 621.39
258. Macaluso, Mike	.50	$ 994.22	$ 124.28
259. Manakas, Ted	.25	$ 497.11	$ 62.14
260. Manning, Edward	8	$ 15,907.52	$ 1,988.44
261. Maravich, Peter	4	$ 7,953.76	$ 994.22
262. Marin, Jack	15	$ 29,826.58	$ 3,728.31
263. Marlatt, Harvey	2.25	$ 4,473.99	$ 559.25
264 Marsh, Jim	.50	$ 994.22	$ 124.28
265. Marshall, Vester	.25	$ 497.11	$ 62.14
266. Martin, LaRue	2	$ 3,976.88	$ 497.11
267. Mast, Eddie	2.50	$ 4,971.10	$ 621.39
268. May Donald	7.50	$ 14,913.30	$ 1,864.16
269. Mayes, Clyde	.50	$ 994.22	$ 124.28
270. Mayfield, Ken	.25	$ 497.11	$ 62.14
271. McAdoo, Bob	2	$ 3,976.88	$ 497.11
272. McCarter, Willie	4	$ 7,953.76	$ 994.22
273. McCracken, Paul	.75	$ 1,491.33	$ 186.42
274. McDaniels, Jim	1.75	$ 3,479.77	$ 434.97
275. McDonald, Glenn	1	$ 1,988.44	$ 248.56
276. McElroy, Jim	.50	$ 994.22	$ 124.28
277. McGinnis, George	.50	$ 994.22	$ 124.28
	72	$143,167.64	$ 17,895.97

Class Member	Units	Total Share	Annual Installment
278. McGlocklin, Jon	15	$ 29,826.58	$ 3,728. 31
279. McGregor, Gil	1	$ 1,988.44	$ 248.56
280. McGuire, Allie	.25	$ 497.11	$ 62.14
281. McIntosh, Kennedy	2.25	$ 4,473.99	$ 559.25
282. McKenzie, Stanley	9.75	$ 19,387.28	$ 2,423.41
283. McLemore, McCoy	13	$ 25,849.71	$ 3,231.21
284. McMillen, Tom	.50	$ 994.22	$ 124.28
285. McMillian, Jim	4	$ 7,953.76	$ 994.22
286. McNeill, Larry	1.50	$ 2,982.66	$ 372.83
287. McWilliams, Eric	.50	$ 994.22	$ 124.28
288. Meely, Cliff	3	$ 5,965.32	$ 745.67
289. Melchionni, Gary	1	$ 1,988.44	$ 248.56
290. Meminger, Dean	3	$ 5,965.32	$ 745.67
291. Mengelt, John	3	$ 5,965.32	$ 745.67
292. Meriweather, Joe	50	$ 994.22	$ 124.28
293. Meschery, Thomas	12	$ 23,861.27	$ 2,982.66
294. Meyers, David	.50	$ 994.22	$ 124.28
295. Mikan, George Larry	1	$ 1,988.44	$ 248.56
296. Miles, Eddie	13	$ 25,849.71	$ 3,231.21
297. Minor, Mark	.25	$ 497.11	$ 62.14
298. Mix, Steve	5	$ 9,942.20	$ 1,242.78
299. Money, Eric	1	$ 1,988.44	$ 248.56
300. Monroe, Earl	11	$ 21,872.83	$ 2,734.10
301. Moore, Otto	8	$ 15,907.52	$ 1,988.44
	110	$218,728. 33	$27,341.07

	Class Member	Units	Total Share	Annual Installment
302.	Morgan, Rex	2	$ 3,976.88	$ 497.11
303.	Mueller, Erwin	13.25	$ 26,346.82	$ 3,293.35
304.	Mullins, Jeffrey	15	$ 29,826.58	$ 3,728.31
305.	Murphy, Calvin	4	$ 7,953.76	$ 994.22
306.	Murrey, Dorie	13	$ 25,849.71	$ 3,231.21
307.	Nash, Bob	1	$ 1,988.44	$ 248.56
308.	Neal, Lloyd	2	$ 3,976.88	$ 497.11
309.	Nelson, Barry	1	$ 1,988.44	$ 248.56
310.	Nelson, Donald	15	$ 29,826.58	$ 3,728.31
311.	Nelson, Louis	1.50	$ 2,982.66	$ 372.83
312.	Newlin, Mike	3	$ 5,965.32	$ 745.67
313.	Newmark, David	4	$ 7,953.76	$ 994.22
314.	Niemann, Rich	3	$ 5,965.32	$ 745.67
315.	Norman, Coniel	.75	$ 1,491.33	$ 186.42
316.	Norwood, Willie	3	$ 5,965.32	$ 745.67
317.	Ogden, Carlos (Bud)	3	$ 5,965.32	$ 745.67
318.	Ogden, Ralph	1	$ 1,988.44	$ 248.56
319.	Ohl, Don	11	$ 21,872.83	$ 2,734.10
320.	Oleynick, Frank	.50	$ 994.22	$ 124.28
321.	O'Malley, Grady	1	$ 1,988.44	$ 248.56
322.	Owens, Jim	1	$ 1,988.44	$ 248.56
323.	Patterson, Steve	3	$ 5,965.32	$ 745.67
324.	Patterson, Tom	.75	$ 1,491.33	$ 186.42
325.	Paulk, Charles	3.50	$ 6,959.54	$ 869.94
		106.25	$211,271.68	$26,408.98

	Class Member	Units	Total Share	Annual Installment
326.	Payne, Thomas	1	$ 1,988.44	$ 248.56
327.	Perry, Curtis	4	$ 7,953.76	$ 994.22
328.	Petersen, Loy	4	$ 7,953.76	$ 994.22
329.	Petrie, Geoffrey	4	$ 7,953.76	$ 994.22
330.	Pondexter, Cliff	.50	$ 994.22	$ 124.28
331.	Porter, Howard	3	$ 5,965.32	$ 745.67
332.	Porter, Kevin	2	$ 3,976.88	$ 497.11
333.	Portman, Bob	4.50	$ 8,947.98	$ 1,118.50
334.	Price, Jim	2	$ 3,976.88	$ 497.11
335.	Price, Mike	2	$ 3,976.88	$ 497.11
336.	Quick, Bob	5.50	$ 10,936.42	$ 1,367.05
337.	Rackley, Luther	4.50	$ 8,947.98	$ 1,118.50
338.	Ratleff, Ed	1.50	$ 2,982.66	$ 372.83
339.	Ratliff, Mike	.75	$ 1,491.33	$ 186.42
340.	Ray, Clifford	3	$ 5,965.32	$ 745.67
341.	Reaves, Joe	.25	$ 497.11	$ 62.14
342.	Reed, Willis	15	$ 29,826.58	$ 3,728.31
343.	Restani, Kevin	1	$ 1,988.44	$ 248.56
344.	Reynolds, George	1	$ 1,988.44	$ 248.56
345.	Ridgle, Jackie	1	$ 1,988.44	$ 248.56
346.	Riker, Tom	1	$ 1,988.44	$ 248.56
347.	Riley, Bob	.50	$ 994.22	$ 124.28
348.	Riley, Patrick	11	$ 21,872.83	$ 2,734.10
349.	Riley, Ron	2	$ 3,976.88	$ 497.11
		75	$149,132.97	$18,641.65

.ass Member	Units	Total Share	Annual Installment
50. Rinaldi, Rich	1.75	$ 3,479.77	$ 434.97
51. Riordan, Mike	8	$ 15,907.52	$ 1,988.44
52. Roberson, Rick	6	$ 11,930.64	$ 1,491.33
53. Robertson, Oscar	14	$ 27,838.14	$ 3,479.76
54. Robinson, Flynn	13.50	$ 26,843.93	$ 3,355.49
355. Robinson, Len	1	$ 1,988.44	$ 248.56
356. Robinzine, Bill	.50	$ 994.22	$ 124.28
357. Roche, John	.25	$ 497.11	$ 62.14
358. Rodgers, Guy	11	$ 21,872.83	$ 2,734.10
359. Rowe, Curtis	3	$ 5,965.32	$ 745.67
360. Ruffner, Paul	2	$ 3,976.88	$ 497.11
361. Rule, Bobby	10.25	$ 20,381.50	$ 2,547.69
362. Russell, Cazzie	15	$ 29,826.58	$ 3,728.31
363. Russell, Frank	.50	$ 994.22	$ 124.28
364. Russell, Michael ("Campy")	1	$ 1,988.44	$ 248.56
365. Sanders, Thomas	13.50	$ 26,843.93	$ 3,355.49
366. Saunders, Fred	1	$ 1,988.44	$ 248.56
367. Schade, Frank	.25	$ 497.11	$ 62.14
368. Schlueter, Dale	11	$ 21,872.83	$ 2,734.10
369. Scholz, David	1	$ 1,988.44	$ 248.56
370. Scott, Charlie	2.50	$ 4,971.10	$ 621.39
371. Scott, John Raymond	11	$ 21,872.83	$ 2,734.10
372. Seals, Bruce	.50	$ 994.22	$ 124.28
373. Searcy, Ed	.25	$ 497.11	$ 62.14
	128,75	$ 256,011 55	$ 32,001.45

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Class Member	Units	Total Share	Annual Installment
374. Short, Eugene	.50	$ 994.22	$ 124.28
375. Shumate, John	.50	$ 994.22	$ 124.28
376. Sibert, Sam	.25	$ 497.11	$ 62.14
377. Sibley, Mark	.50	$ 994.22	$ 124.28
378. Silas, Paul	15	$ 29,826.58	$ 3,728.31
379. Siegfried, Larry	13	$ 25,849.71	$ 3,231.21
380. Silliman, Mike	1	$ 1,988.44	$ 248.56
381. Skinner, Talvin	1	$ 1,988.44	$ 248.56
382. Sloan, Jerry	15	$ 29,826.58	$ 3,728.31
383. Smith, Adrian	12	$ 23,861.27	$ 2,982.66
384. Smith, Bill	1.50	$ 2,982.66	$ 372.83
385. Smith, Don	.50	$ 994.22	$ 124.28
386. Smith, Elmore	3	$ 5,965.32	$ 745.67
387. Smith, Garfield	2	$ 3,976.88	$ 497.11
388. Smith, Greg	7.75	$ 15,410.41	$ 1,926.30
389. Smith, Phil	1	$ 1,988.44	$ 248.56
390. Smith, Randy	3	$ 5,965.32	$ 745.67
391. Smith, Robert "Bingo"	6	$ 11,930.64	$ 1,491.33
392. Snyder, Richard	15	$ 29,826. 58	$ 3,728.31
393. Sobers, Rick	.50	$ 994.22	$ 124.28
394. Sojourner, Michael	1	$ 1,988.44	$ 248.56
395. Sorenson, Dave	2.50	$ 4,971.10	$ 621.39
396. Stacom, Kevin	1	$ 1,988.44	$ 248.56
397. Stallworth, Bud	2	$ 3,976.88	$ 497.11
	105.50	$ 209,780.34	$ 26,222.55

Class Member	Units	Total Share	Annual Installment
398. Stallworth, Dave	9.25	$ 18,393.06	$ 2,299.13
399. Steele, Larry	3	$ 5,965.32	$ 745.67
400. Stewart, Dennis	.50	$ 994.22	$ 124.28
401. Stovall, Paul	.50	$ 994.22	$ 124.28
402. Stricker, Bill	.50	$ 994.22	$ 124.28
403. Suiter, Gary	1	$ 1,988.44	$ 248.56
404. Taylor, Fred	2	$ 3,976.87	$ 497.11
405. Terry, Chuck	.75	$ 1,491.33	$ 186.42
406. Thigpen, Justus	.50	$ 994.22	$ 124.28
407. Thomas, Joe	1	$ 1,988.44	$ 248.56
408. Thomas, Terry	.50	$ 994.22	$ 124.28
409. Thompson, George	.50	$ 994.22	$ 124.28
410. Thorn, Rod	12	$ 23,861.27	$ 2,982.66
411. Thurmond, Nate	15	$ 29,826.58	$ 3,728.31
412. Tolson, Dean	.50	$ 994.22	$ 124.28
413. Tomjanovich, Rudy	4	$ 7,953.76	$ 994.22
414. Tormohlen, Gene	8	$ 15,907.52	$ 1,988.44
415. Trapp, George	3	$ 5,965.32	$ 745.67
416. Trapp, John	6.50	$ 12,924.86	$ 1,615.61
417. Tresvant, John	13.50	$ 26,843.93	$ 3,355.49
418. Tschogl, John	1.25	$ 2,485.55	$ 310.69
419. Tucker, Albert	8	$ 15,907.52	$ 1,988.44
420. Turner, William	9	$ 17,895.95	$ 2,236.99
421. Unseld, Westley	8	$ 15,907.52	$ 1,988.44
	108.75	$ 216.242.78	$ 27,030.37

Class Member	Units	Total Share	Annual Installment
422. Vallely, John	2	$ 3,976.88	$ 497.11
423. Van Arsdale, Richard	15	$ 29,826.58	$ 3,728.31
424. Van Arsdale, Thomas	15	$ 29,826.58	$ 3,728.31
425. Van Lier, Norm	6	$ 11,930.64	$ 1,491.33
426. Verga, Bob	.50	$ 994.22	$ 124.28
427. Walk, Neal	6	$ 11,930.64	$ 1,491.33
428. Walker, Chester	14.50	$ 28,832.36	$ 3,604.04
429. Walker, Clarence "Foots"	1	$ 1,988.44	$ 248.56
430. Walker, Jimmy	11	$ 21,872.83	$ 2,734.10
431. Walton, Bill	1	$ 1,988.44	$ 248.56
432. Warbington, Perry	.25	$ 497.11	$ 62.14
433. Warner, Cornell	4	$ 7,953.76	$ 994.22
434. Warren, John	5	$ 9,942.20	$ 1,242.78
435. Washington, Bobby	2.50	$ 4,971.10	$ 621.39
436. Washington, James	14.75	$ 29,329.47	$ 3,666.18
437. Washington, Kermit	1.50	$ 2,982.66	$ 372.83
438. Washington, Stan	.25	$ 497.11	$ 62.14
439. Watts, Don	1.50	$ 2,982.66	$ 372.83
440. Weatherspoon, Nick	1.50	$ 2,982.66	$ 372.83
441. Webb, Jeff	2	$ 3,976.88	$ 497.11
442. Wedman, Scott	1	$ 1,988.44	$ 248.56
443. Weiss, Robert	15	$ 29,826.58	$ 3,728.31
444. Wells, Owen	.25	$ 497.11	$ 62.14
445. Wesley, Walter	14.75	$ 29,329.47	$ 3,666.18
	136.25	$ 270,924.82	$ 33,865.57

Class Member	Units	Total Share	Annual Installment
446. West, Jerry	14	$ 27,838.14	$ 3,479.76
447. Westphal, Paul	2	$ 3,976.88	$ 497.11
448. Wetzel, John	7	$ 13,919.08	$ 1,739.89
449. White, Herb	1	$ 1,988.44	$ 248.56
450. White, Jo Jo	6	$ 11,930.64	$ 1,491.33
451. White, Rudy	.50	$ 994.22	$ 4.28
452. Wicks, Sidney	3	$ 5,965.32	$ 745.67
453. Wilkens, Len	14.50	$ 28,832.36	$ 3,604.04
454. Wilkes, Jamaal (Keith)	1	$ 1,988.44	$ 248.56
455. Williams, Art	10	$ 19,884.39	$ 2,485.55
456. Williams, Bernie	3	$ 5,965.32	$ 745.67
457. Williams, Earl	1	$ 1,988.44	$ 248.56
458. Williams, Gus	.50	$ 994.22	$ 124.28
459. Williams, Milt	1.50	$ 2,982.66	$ 372.83
460. Williams, Nate	3	$ 5,965.32	$ 745.67
461. Williams, Ron	7.75	$ 15,410.41	$ 1,926.30
462. Williams, Sam	3	$ 5,965.32	$ 745.67
463. Williams, Willie	1	$ 1,988.44	$ 248.56
464. Willoughby, Bill	.50	$ 994.22	$ 124.28
465. Wilson, Bob	1	$ 1,988.44	$ 248.56
466. Wilson, George	12	$ 23,861.27	$ 2,982.66
467. Wilson, Isaiah "Bunny"	1	$ 1,988.44	$ 248.56
468. Winfield, Lee	6	$ 11,930.64	$ 1,491.33
469. Wingo, Harthorne	1.75	$ 3,479.77	$ 434.97
	102.	$ 202,820.79	$ 25,352.65

Class Member	Units	Total Share	Annual Installment
470. Winkler, Marvin	.50	$ 994.22	$ 124.28
471. Winters, Brian	1	$ 1,988.44	$ 248.56
472. Witte, Luke	1.50	$ 2,982.66	$ 372.83
473. Wohl, Dave	3	$ 5,965.32	$ 745.67
474. Workman, Tom	6	$ 11,930.64	$ 1,491.33
475. Wright, Joby	.50	$ 994.22	$ 124.28
476. Yates, Barry	1	$ 1,988.44	$ 248.56
477. Yelverton, Charlie	1	$ 1,988.44	$ 248.56
478. Zeller, Gary	2	$ 3,976.88	$ 497.11
479. Zopf, Bill	1	$ 1,988.44	$ 248.56
	17.50	$ 34,797.70	$ 4,349.73
Total	2162.50	$4,300,000.00	$537,500.00

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSCAR ROBERTSON, et al.,	:	
Plaintiffs,	:	70 Civ. 1526 (RLC)
-against-	:	
NATIONAL BASKETBALL ASSOCIATION, et al.,	:	
	:	NOTICE OF APPEAL
Defendants.	:	

S I R S:

PLEASE TAKE NOTICE that WILTON N. CHAMBERLAIN, hereby appeals to the United States Court of Appeals for the Second Circuit from the Final Consent Judgment, which Judgment inter alia, approved the Settlement Agreement dated April 29, 1976, and which Judgment was entered August 4, 1976.

Dated: New York, New York
August 27, 1976

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

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Oscar Robertson, et al.,

Plaintiffs,

v. 70 Civ. 1526

National Basketball Association, et al,,

Defendants.

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New York, N. Y.
January 23, 1976
10:45 a.m.

BEFORE:

HON. ROBERT L. CARTER,

District Judge

APPEARANCES:

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Teams and Owners
Michael Cardozo, Esq.,
M. William Scherer, Esq., and
Richard L. Wasserman, Esq., of Counsel

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Sidney H. Stein, Esq., of Counsel

John H. Boone, Esq.,
Attorney for Wilt Chamberlain

Michael H. Goldberg, Esq.,
Attorney for all other teams except
Long Island Sports Enterprises

MR. CARDOZO: Your Honor, first, I would like to hand up the originals of our reply papers to be served on you, which were served yesterday afternoon and delivered to your chambers.

We mailed a copy to Mr. Boone last night, and gave another copy to him this morning.

Again talking of six years ago, on March 15, 1970, Wilt Chamberlain signed an authorization to bring the Robertson action on his behalf. That is Exhibit C to our moving affidavit.

He said that the action should be brought to bring about an end to any agreement to eliminate competetion in the acquisition of talent among NBA players.

On December 22, 1975, after you had ruled that this case was a class action under Rule 23(b)(1), Mr. Chamberlain started a lawsuit in California. His complaint is annexed to our moving papers.

As I understand his complaint, your Honor, it complains of one of three things, or the interrelationship of them.

He complains that he had a contract with Los Angeles of the NBA, he sat out his option year partially as the result of a state court injunction that had been entered against him, and in 1975, when he wanted to play

in the NBA again, he wasn't allowed to without either playing with Los Angeles -- and he complained, I think, of that -- which of course concerns how long is the option year.

Alternatively he says"Before any NBA team could negotiate with me they had to buy my rights from Los Angeles."

Finally, what I think he is really complaining about is the fact that when Commissioner O'Brien announced that Mr. Chamberlain was a free agent, in testimony that is annexed as Exhibit 3 to my reply affidavit, any NBA team that signed Mr. Chamberlain would have had to pay appropriate compensation to Los Angeles.

It seems to me, your Honor, that it is one of those three things or a combination of all three that Mr. Chamberlain is complaining about.

If it is the length of the option clause, it certainly is part of the Robertson case. If it is whether or not a team had to acquire the rights to Mr. Chamberlain from Los Angeles before negotiating with Mr. Chamberlain, that's tampering rule, which is part of the Robertson case.

If it is a question of compensation, which I think it really is, as you well know that is part of the Robertson case.

So why is it that Mr. Chamberlain should be

allowed to proceed in a separate action?

Well, he says, "What happened to me didn't happen until September, 1975."

As I recall, it was two weeks ago when I tried to make the same argument, your Honor, with respect to the Denver and New York situation being in the ABA case, and you ruled that just because something had occurred in September, 1975, which is when Denver and New York applied to the NBA, didn't take it out of the Robertson case.

It was practically the identical time frame that the acts about which Mr. Chamberlain is complaining occurred.

Through all this, your Honor, is the fact you issued a Rule 23(b)(1) certification. You overruled our arguments. You said that no one should be allowed to opt out of the case. You said you didn't want to have the possibility of some other player bringing a lawsuit in another jurisdiction and possibly obtaining relief that would be inconsistent with the relief that you would grant here.

If Mr. Chamberlain is allowed to go forward, that is precisely what might happen, because he is attacking the very same practices that are involved here.

Finally, your Honor --

THE COURT: Before you sit down, I want you to address yourself to one thing, which is the issue of jurisdiction.

MR. CARDOZO: I will be happy to.

Your Honor, we cite in our brief a number of different class action cases, including an opinion by Judge, now Justice, Stevens, in which the precise relief that we are requesting was granted.

Closer to home, Judge Palmieri in the Kroningberg case issued an injunction prohibiting any person who did not opt out from bringing a separate action in another jurisdiction.

Does the Court have jurisdiction over Mr. Chamberlain? I think it certainly does for three separate reasons.

First, if Mr. Chamberlain is a party here for injunction purposes, then you certainly have jurisdiction over him, and I would say, your Honor, that your ruling in July, in which you took a practical approach to the problem of discovery, including the question of Rule 33 and 34 discovery requests to the class, disposed of that issue, particularly because in November, when we were having our argument about who pays for the costs of depositions, you ruled -- you observed -- that the players

were parties for deposition purposes and that was one of the reasons you said that we didn't have to pay for Mr. Gruenberger's expenses in connection with it.

Secondly, all the cases where courts have issued injunctions to stay or join a related action, there was never a question about jurisdiction because it goes to the inherent authority of the Court.

Since Mr. Chamberlain is part of the Robertson case, he is concededly a class plaintiff, and just as he can take the benefit of the Robertson action, assuming the plaintiffs win, he certainly can't come into this court and say, "Well, I am not physically present in New York and therefore the Court doesn't have jurisdiction over me."

Take the example, your Honor, of a defendant class action, of which there are some. Suit is brought by a plaintiff against one named defendant and all others similarly situated from coast to coast. There is never a question that the absent defendants have a right to have notice of the action, but certainly there is no question that the absent defendant is not within the jurisdiction of the Court.

It seems to me the situation we have here today is exactly what we had in January,1974, when I argued that you should enjoin the ABA's prosecution of the action

that they commenced against the NBA in California, an action, incidentally, that was brought by Mr. Boone.

The relationship of the ABA action to the Robertson action you found then was closely interrelated. It is even more closely related in our present situation.

Under those circumstances, your Honor, it seems to me that the motion should be granted, particularly in light of the fact that Chamberlain consented, he authorized the commencement of this action.

THE COURT: Mr. Boone.

MR. BOONE: Your Honor, my name is John Boone. I have never appeared in the NBA case, though I did assist in the drafting of the complaint in San Francisco. I am not now associated with Mr. Furth's office and haven't worked on that case since the initial complaint was filed in San Francisco. So a lot of the factual statements I don't really know about except what I have been able to pick up in the last two weeks.

My point with regard to Mr. Chamberlain, your Honor, is somewhat different than I take it from the arguments you have had before you today in the prior occasion. Some people want to get into the case, some people want to get out of the case.

In this situation, Mr. Chamberlain would like to

do both. He has, as we put in our moving papers, two causes of action that he is willing to assert. One of those causes of action is for occurrences when he played with the NBA. During that period of time it may be, depending on what happens at the trial, Mr. Chamberlain suffered some damage by reason of the reserve rule, compensation rule, what have you. I am not that familiar with what the claims will ultimately be, and I am sure he will be adequately represented by the Robertson plaintiffs.

But this situation in Los Angeles is a different situation entirely and I think the Supreme Court's decision we cited indicates a person or an entity can have more than one antitrust cause of action.

I think it would be nice if we could try all further causes of action in one litigation, and we don't have to worry about any antitrust cases from then on, but unfortunately that doesn't always happen. I think this is one example where that cannot or has not happened.

For example, Mr. Rothenberg, who will be a key witness, I presume, in the trial of Mr. Chamberlain's case based upon the events of last September and October, Mr. Rothenberg testified that this was a unique Chamberlain situation, this was not what has been referred to as a compensation rule but this was a unique Chamberlain situation.

So Mr. Chamberlain is not denying that there are various grievances in the Robertson case which he supports. He is not at the same time, by filing a lawsuit in Los Angeles, challenging in any way anything that has been done in this court. All he has done is asserted a new cause of action. It could be a contract cause of action. It may ultimately be a contract cause of action. I don't know. Because the complaint and the events are so new, we have not even started discovery. We don't know what will ultimately develop in that case.

But it is definitely a separate rule in accordance with the deposition testimony I found, and again I say I am not familiar with the record in this case so there may be a lot more testimony I am not familiar with, but from what I do see --

THE COURT: I wish you would point it out to me, because I find it hard to conceive how Mr. Chamberlain's action, whatever its variation, is not stemming from the same basis of alleged evils that are the foundation of the litigation before me. I am having difficulty seeing how he can separate his cause of action from that, and if you will explain that to me I certainly would appreciate it.

MR. BOONE: I think probably Mr. Chamberlain's cause of action in the Los Angeles action can be separated

in two ways. Number one is, first of all, you never have a cause of action under the antitrust laws until there is a damage, some damage accrued. And until this new rule was exercised against Mr. Chamberlain he did not have a cause of action.

THE COURT: What rule was that?

MR. BOONE: This was the rule which Mr. Rothenberg didn't name but he said it was a different rule than the compensation rule. It is a rule that because he did not play out his option year Los Angeles would get compensation or indemnity for a loss of his services during that year.

In other words, whoever hired Mr. Chamberlain to play basketball had to pay damages to L.A. for Mr. Chamberlain's past breach of contract, or whatever.

THE COURT: I am afraid that that is the same thing, as I understand it, that is involved in this case.

MR. BOONE: In the compensation group?

THE COURT: The problem is that I don't believe the fact that new variations of a rule are enforced makes it any different. The plaintiffs in this action discovered in the course of discovery that the clubs were sending out information among one another as to what kind of salaries they were paying the players. I think that was

the testimony. Mr. Gruenberger indicated he didn't know that, and the issue was whether he had to bring a new cause of action. My opinion was obviously he did not, because it was part of the same thing. It was just a manifestation of one of the problems of the litigation.

The one you have just alleged I really have difficulty in seeing how it is different than the basic cause of action which the NBA has before me. I might as well be clear, Mr. Boone, on that. I don't see any difference, and I think you had better make another point.

2/1 p.m.

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MR. BOONE: With regard to that, your Honor, I agree with you that there's not a whole lot of difficulty. I think the rule is still a boycott and the rule would be illegal. No matter what you call it, it's still a boycott.

THE COURT: That's what Mr. Gruenberger called the Rozelle rule, I think which applied to the NBA.

MR. GRUENBERGER: Reserve compensation claim, your Honor.

MR. CARDOZO: The Gruenberger coining of the phrase.

THE COURT: OK.

MR. BOONE: The reason why we brought this action in California is primarily because what happened to Mr. Chamberlain did not happen until September and October. He had no cause of action under that rule until that time.

Number two, the two individuals who we would like to be present for live testimony at the trial, Mr. Rothenberg and Mr. Cooke, both are within the jurisdiction of the Los Angeles Court.

Number three, this case has proceeded to the point where I submit there should be some cutoff as to when you are going to bring in new claims into this. I understand that you have a trial date set for June 1 and you are attempting to cut off discovery as of the end of this month.

This suggests to me, your Honor, and I would like to suggest it to you, that there should be some cutoff as to when new claims are going to be asserted in this litigation, new causes of action, new damage claims.

THE COURT: Also, on the other hand, Mr. Boone, it may well be that if there are going to be any variations of the basic action that is being brought by individual players, it may be that action ought to be stayed until this one is completed and decided.

MR. BOONE: I think if your time schedule is what I understand it to be, that action effectively is stayed because there will not be any substantial moving forward in Los Angeles until June 1 because of the nature of the time.

Insofar as inconvenience to the NBA -- if that's what the NBA really wants, that they want a stay of the Los Angeles action until you finish this proceeding on the liability phase, I don't really have any problems with that, your Honor. That kind of remedy is one that I think Mr. Chamberlain and his lawyers would be incurring, that we would be willing not to push our case to trial before you tried your case. I don't think we could if we wanted to.

The reason I say that, your Honor, is because I think the Los Angeles Court would also give us an

extension of time given the trial delays, the nature of trying this kind of case.

Finally, your Honor, with regard to the irreparable injury of the NBA, there is not really a response to our position on that. It is true that some Courts have enjoined the prosecution of concurring in personam actions. Other Courts have not enjoined.

THE COURT: The injunctions have been issued for the irreparable injury to the party. For the most part the injunctions have been issued to protect the jurisdiction of the Court that has the action.

MR. BOONE: Right. I don't believe that situation appears here. There is no question of the jurisdiction of this Court.

I think the best way to look at it is, which will probably be the case, if you try this case in June and July and the class in the Robertson case gets a judgment of liability, that the reserve rule, whatever you want to call it, whatever the current word for how the rule is applied in this case, if there's a determination that that is illegal violation of the antitrust clause as a boycott, then I think Mr. Chamberlain will have a question, and I would like to see what Mr. Cardozo's response will be to this, whether or not he could take res judicata or will they continue to

maintain as some of the depositions indicate that this is a separate rule, separate cause of action and you are going to have to try the liability again of Mr. Chamberlain.

I am willing to have Mr. Chamberlain's lawsuit stayed until you rule on it. I seriously doubt that the NBA will come in and say: You won liability, how much are your damages, or vice versa. Unless they win liability, then they may be taking that position.

THE COURT: I think, Mr. Boone, that Mr. Chamberlain won by committing himself initially to this litigation. I suppose he couldn't have helped himself if he had not. By virtue of this litigation, I think under all circumstances the NBA would have that argument. They are going to use it as good lawyers would.

MR. BOONE: Sure.

THE COURT: I don't see how that can be avoided under any circumstances.

MR. BOONE: I don't either. I think that's going to be a problem --

THE COURT: You have a problem. If you try to pursue the action in Los Angeles, you have the problem that you have now. Even if the NBA hadn't brought this before me, the defendants would have made the same argument to the Los Angeles Court that is being made here, and if the action

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is stayed until the conclusion of the NBA's action before me, you face the issue of the res judicata argument. You are going to have to meet those no matter where we are.

MR. BOONE: I think that's true, your Honor. I think we will have to meet them.--

THE COURT. You have those hurdles to face when you brought a lawsuit, I think, Mr. Boone.

MR. BOONE: Right. I think probably a time for you to determine whether or not I have to meet that is if you get to the stage of the pretrial order and then we will see, is this going to be an issue in the case or not. If this is an issue in the case, your Honor, I think it is a new issue in the case and one that had not been discovered because of the instructions given to primarily Mr. Rothenberg and Mr. Cooke.

THE COURT: All right. Thank you.

MR. GRUENBERGER: May I, your Honor?

THE COURT: Amicus?

MR. GRUENBERGER: This is my action. Amicus was that other action.

THE COURT: All right, Mr. Gruenberger.

MR. GRUENBERGER: Your Honor, there's no question that Mr. Chamberlain is a class member. There is no question also, your Honor, that all the rules of law that you have

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discussed with Mr. Boone and Mr. Cardozo are correct. The only question here is the elemental unfairness that has now developed to the class in the Robertson action.

I don't know Mr. Chamberlain at all. I have never met him. I have only talked to Mr. Boone once in my life. Unfortunately he didn't know the history of this case and all that's gone on, but I think something has occurred that your Honor must be aware of.

I agree that if what happened to Mr. Chamberlain is a variation of the reserve compensation plan, variation of the reserve systems as a whole, it belongs in this action. I agree one hundred percent.

Chamberlain's contract action does not belong in this case. I think we would all agree on that.

The question is, what happened to Mr. Chamberlain in September and October of 1975?

I sought to find out, your Honor, in July of 1975 knowing from the newspapers that something was going to happen to Mr. Chamberlain in my case. So I took the depositions of two people, the owner of the Los Angeles Lakers and their member on the Board of Governors, Mr. Rothenberg, who was the lawyer for Los Angeles.

I asked the question: What is going to happen when and if Mr. Chamberlain wants to sign with another team

in the NBA having been out of the league for two years?

Mr. Cooke told me under oath: There is no policy like that in the NBA. I don't know what would happen. I would expect that there would be equitable compensation paid to the Lakers.

I asked him directly: Is that the same as the reserve compensation plan that is described in Mr. Kennedy's affidavit that was before your Honor in 1974? That plan being, your Honor, if a player plays through the term of his contract, plays all the option period, signs with another team, the new team must pay compensation to the old team.

He said: No. He said: There isn't even such a policy in existence. Chamberlain is different.

I asked the question: Well, what would happen if a team signed Mr. Chamberlain for the next year and they did not make the payment to you that you wanted, this equitable payment?

Mr. Stern directed the witness not to answer the question on the ground that it was hypothetical.

I asked the same series of questions in July of Mr. Rothenberg, his lawyer, a Board of Governors member from the Lakers.

He said, whether it was the same as the reserve

compensation plan, he said, it's a very gray area. I don't know the answer. Nobody's ever made a ruling. There's no policy.

I asked him: Do the Lakers expect compensation to be paid as under the reserve compensation plan if Mr. Chamberlain tried to sign with another team?

Mr. Cardozo directed Mr. Rothenberg not to answer the question on the grounds that it was hypothetical.

With that direction and being in California, the deposition ended.

In September and in October all the events transpired as set forth in Mr. Goldberg's affidavit, who is Mr. Boone's associate. I read about these in the newspapers. I had no facts.

So the depositions of Mr. Cooke and Mr. Rothenberg were being continued on the west coast by the ABA at this time. My part of it had closed. I said I had no more questions except for rulings that I considered inappropriate, rulings to direct not to answer.

I told Mr. Stern: OK, there's new matter now on Chamberlain. We have read it in the newspaper. I'm sending a man back to California. I want to ask questions about what happened in September and October.

I sent Mr. Warren of my office out there. The

ABA took an hour or two hours of deposition of Mr. Cooke. It was eleven o'clock in the morning. Mr. Cooke had been scheduled for all day.

My associate asked Mr. Cooke: Now that it's happened with Mr. Chamberlain, because the Knicks have tried to sign him, what is going on with respect to compensation?

Mr. Cooke was directed not to answer on the ground that we had had our turn in discovery and they weren't going to answer those questions.

The same thing happened in Mr. Rothenberg's deposition the next day. So we never found out and couldn't find out from the Lakers on discovery whether it was the same rule, a new rule, a variation or what. Our discovery was foreclosed.

What are we going to do? Mr. Boone is told it's in our case and we are told it's not in our case. We are going to go to trial. This is the double standard that the NBA has played all along. When the ABA Players Association --

THE COURT: You don't have any problem about that. You may have some problem about some other things. Even if you are barred, it seems to me that you are in good position. I don't think you have taken the deposition of Mr. O'Brien, have you?

MR. GRUENBERGER: Not yet.

THE COURT: All right. I don't understand what your complaint is. Certainly Mr. O'Brien is in New York. If they ask him not to answer, you know fairly well how to get through to me.

MR. CARDOZO: He's scheduled next week, your Honor.

MR. GRUENBERGER: I never will get Cooke and Rothenberg again.

THE COURT: You don't need them, do you? Mr. O'Brien was the one who handed down the ruling. He knows more about it, at least it seems from the newspapers. He ought to know more about it than they did and can explain it to you as well as they did.

MR. GRUENBERGER: Your Honor, I hope so. I don't concede that that action in California is proper on discovery.

THE COURT: I certainly ought not to be telling you how to run your case.

It just appears to me from what you have just said, you are not hurt. I must also advise you that if the situation were such that you had no one you could get the information from, if you had no one that you could get the information from, you could certainly come to the Court and seek further relief. I might also add that this is

speculative, but it might be helpful in the future, that you might under those circumstances get relief to have a deposition in California at the expense of the defendants.

Mr. Gruenberger, you are not barred, you are not foreclosed from seeking answers to questions that are in the case because of something happening like that.

MR. GRUENBERGER: I appreciate that, your Honor.

I would like to close with the fact, as Mr. Cardozo put it in his papers against Mr. Boone I think you have powers under Rule 23(d)(4) to make any rulings that you consider appropriate under the circumstances.

I think Mr. Boone's suggestion is a fair one, about the stay. I don't know what he meant by saying what a stay was.

THE COURT: What is it, Mr. Cardozo, that you are really seeking in this action? You are seeking to have the matter enjoined and stayed pending the disposition of this case?

MR. CARDOZO: That is correct, your Honor. Certainly at the end of the Robertson case we would all have to take a look at what happened and where we go. We are asking for a preliminary injunction.

THE COURT: You are not asking as you were in the ABA case that the matter be brought here?

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MR. CARDOZO: As I recall, your Honor, it was the ABA that made the ultimate suggestion that it be brought here.

THE COURT: I see.

MR. CARDOZO: We are asking for a preliminary injunction. It may well be that the Robertson case will dispose of Mr. Chamberlain's case.

Your Honor, on the jurisdictional point that you have raised before, we have two cases that we will give to your clerk which hold that injunctive relief against a defendant in a class action with other members of the defendant class scattered from coast to coast is appropriate.

THE COURT: All right. Even though there doesn't appear to be much, you know, dispute about it, for my edification for the future, I would appreciate that. The only thing that really troubled me about this was the question I asked you to discuss. I have no doubt it is the same action. I have no doubt he is a member of the class. I have no doubt that allowing him to prosecute in California one case may not be so bad, but it could lead to proliferation and, therefore, it ought to be stopped.

My real question was the ABA. We had jurisdiction of them. They were before me. I was wondering about this.

MR. CARDOZO: There are cases that make clear the identical parties. It's not a prerequisite.

THE COURT: I understand that.

MR. CARDOZO: I won't take up your time to respond to Mr. Gruenberger's discovery points.

I would just state for the record that I disagree with him.

THE COURT: All right.

Anything further?

MR. CARDOZO: Your Honor, before we leave Mr. Chamberlain, I would like to address myself to one further problem.

Mr. Gruenberger has gone to what I believe to be Herculean efforts to have Mr. Chamberlain produced for his deposition because he was one of the twenty-five wild cards that we had designated. He was scheduled for a deposition originally on January 7 in New York and then when he brought his action or for some other reason -- I don't know why, Mr. Gruenberger told us: I can't reach him, I don't have his documents, we'll have to cancel it.

In accordance with your ruling two weeks ago, Mr. Gruenberger had done everything possible as far as he is concerned within his powers to arrange for Mr. Chamberlain's deposition. We are running out of time.

Yesterday Mr. Gruenberger told us that Mr. Goldberg, Mr. Boone's associate, says that he just can't produce Mr. Chamberlain. We said originally we wanted him anyplace. That was our position. He was scheduled in New York.

Then we said: We will try to add a couple of more California depositions. We will take one more trip to the west coast next week. Now we have eight days left of discovery, your Honor, under your ruling. Mr. Chamberlain has been designated for his deposition. He won't show up.

I think with Mr. Boone here we might have a fruitful discussion on that.

MR. BOONE: Your Honor, I don't know anything about this. This is the first I have heard about it this morning. I don't see how I can have a fruitful discussion about it. I didn't even know it was a problem. There is no motion about it as far as I know. There's been no discussions with me and Mr. Goldberg about this. I couldn't respond. I don't know anything about it.

I should point out, your Honor, that Mr. Goldberg is Mr. Chamberlain's lawyer and has handled his contract, says his affidavit. My only relationship with Mr. Chamberlain is as an antitrust lawyer that was hired for this particular action.

THE COURT: All right.

MR. GRUENBERGER: I appreciate Mr. Cardozo's kind remarks about my efforts.

I have spoken to Mr. Goldberg several times starting in January about Mr. Chamberlain's deposition. When this dispute between Mr. Chamberlain and Mr. Cardozo's clients about the motion you just heard about happened, Mr. Goldberg assured me that Mr. Chamberlain, when he reached Mr. Chamberlain, would come. I have been redoubling those efforts every day.

Yesterday Mr. Goldberg told me -- and Mr. Boone never told me that he could deliver Mr. Chamberlain at all -- Mr. Goldberg thought he could. Mr. Goldberg told me yesterday that he could not deliver him. He's either traveling or he's away somewhere. I don't know. Mr. Chamberlain was sent class notice. He was sent that letter that your Honor saw that I wrote to every deponent designated. There is nothing more I could do about it. I don't know where Mr. Chamberlain is. As I said before, I have never met him.

THE COURT: It doesn't appear from what Mr. Boone said that he's going to be of very much help.

MR. CARDOZO: Your Honor, I spoke to Mr. Boone. I called him about this motion. I spoke to Mr. Boone about

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Mr. Chamberlain's deposition.

He said: What about having it the week of the 27th.

I said: In New York?

He said: No, in California.

I said: I would prefer it in New York, but, OK.

He said: Any day from next Tuesday to the end of the week is OK. He would get back to me or he would have Mr. Goldberg get back to Mr. Gruenberger to make the arrangements. I did speak with Mr. Boone about it.

I think, your Honor, he is a member of the class. We have been doing everything possible. We have no more time. I really think that perhaps a strong suggestion from the Court as to Mr. Chamberlain's obligations might prove quite useful.

MR. GRUENBERGER: I have delivered eight class members in deposition. This is the first one that there has been a problem with. I don't want the class to be hurt by anything that occurs here on the eleventh and a half hour.

THE COURT: Mr. Boone, what is the situation? You indicated to Mr. Cardozo that you could deliver him in Los Angeles --

MR. BOONE: What had happened, Mr. Golberg and

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I and Mr. Gruenberger had a conference call. Mr. Goldberg said -- I believe you recited it correctly, Mr. Gruenberger -- that he thought he could make him available certainly next week.

MR. GRUENBERGER: That's right.

MR. BOONE: They tell me this morning that Mr. Gruenberger called him yesterday. I don't know about this. This is all hearsay to me.

Mr. Goldberg called him and says: I can't find him. I'm sorry. I can't produce him next week.

When I say I don't know what I can say, it's because I haven't talked to Mr. Goldberg. I don't know why Mr. Chamberlain is not available next week.

I know that Mr. Goldberg told us all that he would produce him for his deposition, and I was just relaying that on to Mr. Cardozo. I don't know why he's not available next week. I haven't talked to Mr. Goldberg. I rely on Mr. Goldberg's word. If he says he will be available, I am sure he can be made available some time.

THE COURT: I don't have Mr. Goldberg here. It seems to me, Mr. Boone, this is an important case. I would think that it would be very important for Mr. Chamberlain to make himself available, particularly in view of the problem that you know is going to be faced in his litigation under

the circumstances of the question of res judicata.

I don't want to have to take any drastic action myself. Certainly I don't want to take any action against him in regard to any matter. I don't think it is fair to the class because of his recalcitrance in not taking any punitive action against him. Defendants are entitled to discovery. I have issued an order to that effect. They were entitled to choose twenty-five players, as I recall. One of whom they chose, members of the class, was Mr. Chamberlain. I think you better talk to Mr. Goldberg and tell him that I am not pleased with the fact that Mr. Chamberlain is not making himself available. If he doesn't make himself available, I will be ready at the behest of the behest of the defendants in this case to have some drastic action taken to be sure that he does appear at his deposition.

Under the circumstances, his failure to appear begins to amount to contempt. It is a very important action here. I think you better tell him that.

MR. BOONE: I will, your Honor.

THE COURT: He is in California, I am in New York. If I issue an order, it can be acted upon in California. I think you better tell him. You better tell Mr. Goldberg.

MR. CARDOZO: Your Honor, can we have an agreement with Mr. Boone that he will take no further action in the Chamberlain case in California until you have formally ruled --

THE COURT: If you agree to it, if you are willing to reach that agreement, fine. If you are not willing to reach that agreement, let me know.

MR. BOONE: I will agree, your Honor. I would like to put some time limitation on it, just so I know where I stand. If it is satisfactory with you, can I agree to agree for two weeks not to do anything?

THE COURT: Yes. I think you might as well know that I have just about made up my mind. I have made up my mind that I am going to enjoin the matter. I have to be sure of the jurisdictional ground, which is the only basis on which I would not.

I will have a memorandum on the question out within about the next ten days.

MR. BOONE: Fine.

THE COURT: All right.

When is our agreement about my getting these -- are you submitting to me these various settled orders?

MR. CARDOZO: On the January 9 ruling?

MR. GRUENBERGER: Each side has submitted an

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order.

THE COURT: I signed one order. That wasn't on January 9.

MR. CARDOZO: That was the res judicata order.

THE COURT: You submitted some orders.

MR. GRUENBERGER: I think both sides have.

THE COURT: You have.

MR. CARDOZO: Yes. It may not have come up from downstairs because we noticed this settlement date as this morning. We have a copy here, your Honor.

THE COURT: All right. I don't need to rush to it.

You were supposed to get them all together and submit them.

MR. CARDOZO: We did, your Honor.

THE COURT: Am I to anticipate that Mr. Furth is going to submit some proposed orders as well?

MR. CARLSON: Mr. Furth did submit a counter-proposed order, your Honor.

THE COURT: Mr. Furth submitted a counterproposed order on an issue from last year but not in regard to all those matters I decided on the 9th. I have rejected the counterproposal. I have already signed the order that the NBA presented. I think I gave the ABA some time from the

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date of the signing. I found that it was held in my office, in my chambers for a few days. I think you have got two weeks.

MR. CARDOZO: One week. The 20th it was filed.

THE COURT: I wasn't talking about that, I was talking about the other.

MR. CARDOZO: Your Honor, we served everybody in New York by hand with our proposed order, including Mr. Goldberg and Mr. Carlson.

THE COURT: All right.

MR. CARDOZO: We mailed a copy. I don't know what else we can do.

THE COURT: All right.

MR. CARDOZO: Thank you, your Honor.

THE COURT: All right, gentlemen.

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1428

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

OSCAR ROBERTSON, et al.,

Plaintiffs,

- against -

NATIONAL BASKETBALL ASSOCIATION, a joint venture, et al.,

Defendants.

----------X

70 Civ. 1526 (R.L.C.)

NOTICE OF APPEAL

Notice is hereby given that Plaintiff (Objector) Chester Walker and Plaintiff Class Member (Objector) Clifford Ray hereby appeal to the United States Court of Appeals for the Second Circuit from (a) the denial by the District Court (per Carter, J.), in Opinion No. 44907 entered herein on the 2nd day of August 1976, of their motion to decertify the class, and (b) the approval by the District Court in said Opinion No. 44907 of the Stipulation and Settlement Agreement of April 29, 1976, and the Final Consent Judgment entered herein on the 4th day of August 1976.

Dated: New York, New York
September 1, 1976

RICHARD G. PHILLIPS, ESQ.
1420 Walnut Street
Philadelphia, Pennsylvania 19102

--AND--

ROGERS HOGE & HILLS

By S. Hartwell
A Member of the Firm
90 Park Avenue
New York, New York 10016
(212) 953-9200

Attorneys for Chester Walker and Clifford Ray

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AMERICAN BASKETBALL ASSOCIATION PLAYERS ASSOCIATION, et al. v. NATIONAL BASKETBALL ASSOCIATION, et al.

75 Civ. 6184

and

OSCAR ROBERTSON, et al. v. NATIONAL BASKETBALL ASSOCIATION, et al.

70 Civ. 1526

ENDORSEMENT

The class action settlement in 75 Civ. 6184 is approved. The injunction heretofore issued in 70 Civ. 1526 is dissolved by order signed this day. The court's opinion indicating its reasons for approving the settlement, and why an injunction against the merger of the ABA and the NBA is no longer warranted, will follow.

SO ORDERED.

Dated: New York, New York
September 14, 1976

Robert L. Carter

ROBERT L. CARTER
U.S.D.J.

1430

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSCAR ROBERTSON, et al., Plaintiffs,	:	
-against-	:	70 Civ. 1526 (RLC)
NATIONAL BASKETBALL ASSOCIATION, et al., Defendants.	:	
AMERICAN BASKETBALL ASSOCIATION, et al., Cross-claimants,	:	
-against-	:	
NATIONAL BASKETBALL ASSOCIATION, et al., Cross-defendants.	:	

Supplemental Answers to Plaintiffs' First Set of Interrogatories By Defendant San Francisco Warriors

Defendant San Francisco Warriors makes the following supplemental answers to plaintiffs' First Set of Interrogatories.

Interrogatory 2. Identify as to each NBA member team identified in your answer to Interrogatory No. 1 to be a corporation for the period, each officer and director, and each person having an equity interest of 3 per cent or more in the business.

Answer to 2:

Not applicable.

Answer to 21:

See Answer No. 21 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 22. (a) State the basis of your contention that the present NBA reserve or option clause as its exists in the form set forth in ¶22 of the Uniform Player Contract and/or any predecessor form thereof is or was the result of collective bargaining among the NBA players and/or their representatives and the NBA, the NBA teams and/or their representatives, and (b) identify: (i) all documents upon which you base this contention; (ii) all persons who have custody of such documents; and (iii) all persons who are familiar with such contention and/or documents.

Answer to 22:

See Answer No. 22 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 23. (a) Do you contend that the NBA players accepted or acquiesced in the NBA reserve or option clause in return for benefits from the NBA and its member teams, and (b) if so, identify: (i) each such benefit; (ii) all documents upon which such contention is based; (iii) all persons who have custody of such documents; and (iv) all persons who are familiar with such contentions and/or documents.

Answer to 23:

See Answer No. 23 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 24. Identify for each year during the period, each NBA player as to whom any NBA member team has exercised a "right" of contract renewal or option pursuant to the reserve or option clause, and as to each such player (b) state whether he ultimately achieved so-called "free agent" status as defined herein, and (c) identify: (i) all documents which in any way refer or relate to the exercise of such right of contract renewal; (ii) all persons who have custody of such documents; and (d) all persons who are familiar with such facts and/or documents.

Answer to 24:

The following is a list of players, for each year from 1966 to date, as to whom this team exercised a "right"

of contract renewal or option pursuant to the option clause in the NBA Uniform Player Contract: 1432

1966: None.

1967: Rick Barry, Joe Ellis.

1968: Clyde Lee.

1969: None.

1970: Nate Thurmond.

1971: Clyde Lee, Bill Turner, Bob Portman, Nick Jones.

1972: Jeff Mullins, Ron Williams, Joe Ellis, Vic Bartolome, Bill Turner, Nick Jones, Jim Barnett, Cazzie Russell, Nate Thurmond.

1973: Cazzie Russell, Jim Barnett, Charles Johnson.

1974: Jeff Mullins, Butch Beard, Charles Johnson.

1975: None.

Of the players listed above, the following ulti-

mately achieved "free-agent" status: Cazzie Russell became a free agent as a result of playing out his option during the 1973-74 season. Certain other players listed above have become free agents after having been passed on waivers by all other NBA teams.

Interrogatory 28. (a) State your contention as to the form and meaning of the reserve compensation plan and all other means by which NBA teams have agreed to compensate other NBA teams with respect to players whose stated term of contract has expired and who sign a contract to play for another team, whether or not such reserve compensation plan is set forth in the Kennedy affidavit, and set forth each change in such meaning, the date of each such change and the reason for each such change. (b) identify all persons familiar with such understanding or interpretation.

Answer to 28:

Insofar as this interrogatory has not been objected to, see Answer No. 28 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 29. State (a) the place, date and manner in which the reserve compensation plan, as described in the Kennedy affidavit as heretofore stated, first went into effect in the NBA and (b) the purpose of such plan.

Answer to 29:

See answer No. 28 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 32. (a) State separately the basis for your contentions that: (i) the NBA reserve compensation plan is necessary to organize professional basketball as a league sport; (ii) the NBA reserve compensation plan preserves the competitive balance among the NBA teams and the intergrity of the sport; and (iii) the NBA reserve compensation plan benefits the NBA players, setting forth specifically all such benefits, and (b) identify: (i) all documents upon which you base these contentions; (ii) all persons who have custody of such documents; and (iii) all persons who are familiar with such contentions and/or documents.

Answer to 32:

See Answer No. 32 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

1434

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSCAR ROBERTSON, et al.,

Plaintiffs,

-against-

NATIONAL BASKETBALL ASSOCIATION, et al.,

Defendants.

AMERICAN BASKETBALL ASSOCIATION, et al.,

Cross-claimants,

-against-

NATIONAL BASKETBALL ASSOCIATION, et al.,

Cross-defendants.

Supplemental Answers to Plaintiffs' First Set of Interrogatories By Defendant Texas Sports Investments, Inc.

Defendant makes the following supplemental answers to plaintiffs' First Set of Interrogatories.

Interrogatory 2. Identify as to each NBA member team identified in your answer to Interrogatory No. 1 to be a corporation for the period, each officer and director, and each person having an equity interest of 3 per cent or more in the business.

Answer to 2:

Insofar as this interrogatory seeks identification of this defendant's officers and directors, see this defendant's answer to Interrogatory No. 2 of the ABA's First Set of Interrogatories.

See Rider to No. 2 for the answer to the remainder of this interrogatory.

Answer to 21:

See Answer No. 21 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 22. (a) State the basis of your contention that the present NBA reserve or option clause as its exists in the form set forth in ¶22 of the Uniform Player Contract and/or any predecessor form thereof is or was the result of collective bargaining among the NBA player and/or their representatives and the NBA, the NBA teams and/or their representatives, and (b) identify: (i) all documents upon which you base this contention; (ii) all persons who have custody of such documents; and (iii) all persons who are familiar with such contention and/or documents.

Answer to 22:

See Answer No. 22 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 23. (a) Do you contend that the NBA players accepted or acquiesced in the NBA reserve or option clause in return for benefits from the NBA and its member teams, and (b) if so, identify: (i) each such benefit (ii) all documents upon which such contention is based; (iii) all persons who have custody of such documents; and (iv) all persons who are familiar with such contentions and/or documents.

Answer to 23:

See Answer No. 23 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 24. Identify for each year during the period, each NBA player as to whom any NBA member team has exercised a "right" of contract renewal or option pursuan to the reserve or option clause, and as to each such player (b) state whether he ultimately achieved so-called "free agent" status as defined herein, and (c) identify: (i) all documents which in any way refer or relate to the exercise of such right of contract renewal; (ii) all persons who have custody of such documents; and (d) all persons who are familiar with such facts and/or documents.

Answer to 24:

The following is a list of players, for each year from 1966 to date, as to whom this team exercised a "right"

of contract renewal or option pursuant to the option clause 1436
in the NBA Uniform Player Contract:

1966: None

1967: None

1968: None

1969: None

1970: None

1971: Toby Kimball was in his option year and was then sold to Milwaukee.

1972: None

1973: None

1974: None

1975: None

Of the players listed above, the following ulti-

mately achieved "free-agent" status:

None

Interrogatory 28. (a) State your contention as to the form and meaning of the reserve compensation plan and all other means by which NBA teams have agreed to compensate other NBA teams with respect to players whose stated term of contract has expired and who sign a contract to play for another team, whether or not such reserve compensation plan is set forth in the Kennedy affidavit, and set forth each change in such meaning, the date of each such change and the reason for each such change. (b) identify all persons familiar with such understanding or interpretation.

Answer to 28:

Insofar as this interrogatory has not been objected to, see Answer No. 28 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 29. State (a) the place, date and manner in which the reserve compensation plan, as described in the Kennedy affidavit as heretofore stated, first went into effect in the NBA and (b) the purpose of such plan.

Answer to 29:

See answer No. 28 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 32. (a) State separately the basis for your contentions that: (i) the NBA reserve compensation plan is necessary to organize professional basketball as a league sport; (ii) the NBA reserve compensation plan preserves the competitive balance among the NBA teams and the intergrity of the sport; and (iii) the NBA reserve compensation plan benefits the NBA players, setting forth specifically all such benefits, and (b) identify: (i) all documents upon which you base these contentions; (ii) all persons who have custody of such documents; and (iii) all persons who are familiar with such contentions and/or documents.

Answer to 32:

See Answer No. 32 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSCAR ROBERTSON, et al.,

Plaintiffs,

-against-

NATIONAL BASKETBALL ASSOCIATION, et al.,

Defendants.

70 Civ. 1526 (RLC)

AMERICAN BASKETBALL ASSOCIATION, et al.,

Cross-claimants,

-against-

NATIONAL BASKETBALL ASSOCIATION, et al.,

Cross-defendants.

Supplemental Answers to Plaintiffs' First Set of Interrogatories By Defendant Capital Bullets Basketball Club, Inc.

Defendant makes the following supplemental answers to plaintiffs' First Set of Interrogatories.

Interrogatory 2. Identify as to each NBA member team identified in your answer to Interrogatory No. 1 to be a corporation for the period, each officer and director, and each person having an equity interest of 3 per cent or more in the business.

Answer to 2:

Insofar as this interrogatory seeks identification of this defendant's officers and directors, see this defendant's answer to Interrogatory No. 2 of the ABA's First Set of Interrogatories.

See Rider to No. 2 for the answer to the remainder of this interrogatory.

Answer to 21:

See Answer No. 21 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 22. (a) State the basis of your contention that the present NBA reserve or option clause as its exists in the form set forth in ¶22 of the Uniform Player Contract and/or any predecessor form thereof is or was the result of collective bargaining among the NBA players and/or their representatives and the NBA, the NBA teams and/or their representatives, and (b) identify: (i) all documents upon which you base this contention; (ii) all persons who have custody of such documents; and (iii) all persons who are familiar with such contention and/or documents.

Answer to 22:

See Answer No. 22 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 23. (a) Do you contend that the NBA players accepted or acquiesced in the NBA reserve or option clause in return for benefits from the NBA and its member teams, and (b) if so, identify: (i) each such benefit; (ii) all documents upon which such contention is based; (iii) all persons who have custody of such documents; and (iv) all persons who are familiar with such contentions and/or documents.

Answer to 23:

See Answer No. 23 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 24. Identify for each year during the period, each NBA player as to whom any NBA member team has exercised a "right" of contract renewal or option pursuant to the reserve or option clause, and as to each such player (b) state whether he ultimately achieved so-called "free agent" status as defined herein, and (c) identify: (i) all documents which in any way refer or relate to the exercise of such right of contract renewal; (ii) all persons who have custody of such documents; and (d) all persons who are familiar with such facts and/or documents.

Answer to 24:

The following is a list of players, for each year from 1966 to date, as to whom this team exercised a "right"

of contract renewal or option pursuant to the option clause in the NBA Uniform Player Contract:

1966: NONE.

1967: NONE.

1968: NONE.

1969: NONE.

1970: NONE.

1971: Earl Monroe

1972: Westley Unseld
Archie Clark

1973: NONE.

1974: Phil Chenier

1975: NONE.

Of the players listed above, the following ulti-

mately achieved "free-agent" status:

NONE.

Interrogatory 28. (a) State your contention as to the form and meaning of the reserve compensation plan and all other means by which NBA teams have agreed to compensate other NBA teams with respect to players whose stated term of contract has expired and who sign a contract to play for another team, whether or not such reserve compensation plan is set forth in the Kennedy affidavit, and set forth each change in such meaning, the date of each such change and the reason for each such change. (b) identify all persons familiar with such understanding or interpretation.

Answer to 28:

Insofar as this interrogatory has not been objected to, see Answer No. 28 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 29. State (a) the place, date and manner in which the reserve compensation plan, as described in the Kennedy affidavit as heretofore stated, first went into effect in the NBA and (b) the purpose of such plan.

Answer to 29:

See answer No. 28 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 32. (a) State separately the basis for your contentions that: (i) the NBA reserve compensation plan is necessary to organize professional basketball as a league sport; (ii) the NBA reserve compensation plan preserves the competitive balance among the NBA teams and the intergrity of the sport; and (iii) the NBA reserve compensation plan benefits the NBA players, setting forth specifically all such benefits, and (b) identify: (i) all documents upon which you base these contentions; (ii) all persons who have custody of such documents; and (iii) all persons who are familiar with such contentions and/or documents.

Answer to 32:

See Answer No. 32 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSCAR ROBERTSON, et al., Plaintiffs,	:	
-against-	:	70 Civ. 1526 (RLC)
NATIONAL BASKETBALL ASSOCIATION, et al., Defendants.	:	
AMERICAN BASKETBALL ASSOCIATION, et al., Cross-claimants,	:	
-against-	:	
NATIONAL BASKETBALL ASSOCIATION, et al., Cross-defendants.	:	

Supplemental Answers to Plaintiffs' First Set of Interrogatories By Defendant Pro Basketball, Inc.

Defendant makes the following supplemental answers to plaintiffs' First Set of Interrogatories.

Interrogatory 2. Identify as to each NBA member team identified in your answer to Interrogatory No. 1 to be a corporation for the period, each officer and director, and each person having an equity interest of 3 per cent or more in the business.

Answer to 2:

Insofar as this interrogatory seeks identification of this defendant's officers and directors, see this defendant's answer to Interrogatory No. 2 of the ABA's First Set of Interrogatories.

See Rider to No. 2 for the answer to the remainder of this interrogatory.

Answer to 21:

See Answer No. 21 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 22. (a) State the basis of your contention that the present NBA reserve or option clause as its exists in the form set forth in ¶22 of the Uniform Player Contract and/or any predecessor form thereof is or was the result of collective bargaining among the NBA players and/or their representatives and the NBA, the NBA teams and/or their representatives, and (b) identify: (i) all documents upon which you base this contention; (ii) all persons who have custody of such documents; and (iii) all persons who are familiar with such contention and/or documents.

Answer to 22:

See Answer No. 22 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 23. (a) Do you contend that the NBA players accepted or acquiesced in the NBA reserve or option clause in return for benefits from the NBA and its member teams, and (b) if so, identify: (i) each such benefit; (ii) all documents upon which such contention is based; (iii) all persons who have custody of such documents; and (iv) all persons who are familiar with such contentions and/or documents.

Answer to 23:

See Answer No. 23 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 24. Identify for each year during the period, each NBA player as to whom any NBA member team has exercised a "right" of contract renewal or option pursuant to the reserve or option clause, and as to each such player (b) state whether he ultimately achieved so-called "free agent" status as defined herein, and (c) identify: (i) all documents which in any way refer or relate to the exercise of such right of contract renewal; (ii) all persons who have custody of such documents; and (d) all persons who are familiar with such facts and/or documents.

Answer to 24:

The following is a list of players, for each year from 1966 to date, as to whom this team exercised a "right"

of contract renewal or option pursuant to the option clause in the NBA Uniform Player Contract:

1966:

1967:

1968:

1969:

1970:

1971:

1972: GARY GREER

1973:

1974:

1975:

Of the players listed above, the following ulti-

mately achieved "free-agent" status:

Interrogatory 28. (a) State your contention as to the form and meaning of the reserve compensation plan and all other means by which NBA teams have agreed to compensate other NBA teams with respect to players whose stated term of contract has expired and who sign a contract to play for another team, whether or not such reserve compensation plan is set forth in the Kennedy affidavit, and set forth each change in such meaning, the date of each such change and the reason for each such change. (b) identify all persons familiar with such understanding or interpretation.

Answer to 28:

Insofar as this interrogatory has not been objected to, see Answer No. 28 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 29. State (a) the place, date and manner in which the reserve compensation plan, as described in the Kennedy affidavit as heretofore stated, first went into effect in the NBA and (b) the purpose of such plan.

Answer to 29:

See answer No. 28 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 32. (a) State separately the basis for your contentions that: (i) the NBA reserve compensation plan is necessary to organize professional basketball as a league sport; (ii) the NBA reserve compensation plan preserves the competitive balance among the NBA teams and the intergrity of the sport; and (iii) the NBA reserve compensation plan benefits the NBA players, setting forth specifically all such benefits, and (b) identify: (i) all documents upon which you base these contentions; (ii) all persons who have custody of such documents; and (iii) all persons who are familiar with such contentions and/or documents.

Answer to 32:

See Answer No. 32 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSCAR ROBERTSON, et al.,

Plaintiffs,

-against-

70 Civ. 1526 (RLC)

NATIONAL BASKETBALL ASSOCIATION, et al.,

Defendants.

AMERICAN BASKETBALL ASSOCIATION, et al.,

Cross-claimants,

-against-

NATIONAL BASKETBALL ASSOCIATION, et al.,

Cross-defendants.

Supplemental Answers to Plaintiffs' First Set of Interrogatories By Defendant Detroit Pistons Basketball Club, A Division of Zollner Corporation

Defendant

makes the following supplemental answers to plaintiffs' First Set of Interrogatories.

Interrogatory 2. Identify as to each NBA member team identified in your answer to Interrogatory No. 1 to be a corporation for the period, each officer and director, and each person having an equity interest of 3 per cent or more in the business.

Answer to 2:

Insofar as this interrogatory seeks identification of this defendant's officers and directors, see this defendant's answer to Interrogatory No. 2 of the ABA's First Set of Interrogatories.

See Rider to No. 2 for the answer to the remainder of this interrogatory.

Answer to 21:

See Answer No. 21 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 22. (a) State the basis of your contention that the present NBA reserve or option clause as its exists in the form set forth in ¶22 of the Uniform Player Contract and/or any predecessor form thereof is or was the result of collective bargaining among the NBA players and/or their representatives and the NBA, the NBA teams and/or their representatives, and (b) identify: (i) all documents upon which you base this contention; (ii) all persons who have custody of such documents; and (iii) all persons who are familiar with such contention and/or documents.

Answer to 22:

See Answer No. 22 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 23. (a) Do you contend that the NBA players accepted or acquiesced in the NBA reserve or option clause in return for benefits from the NBA and its member teams, and (b) if so, identify: (i) each such benefit (ii) all documents upon which such contention is based; (iii) all persons who have custody of such documents; and (iv) all persons who are familiar with such contentions and/or documents.

Answer to 23:

See Answer No. 23 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 24. Identify for each year during the period, each NBA player as to whom any NBA member team has exercised a "right" of contract renewal or option pursuant to the reserve or option clause, and as to each such player (b) state whether he ultimately achieved so-called "free agent" status as defined herein, and (c) identify: (i) all documents which in any way refer or relate to the exercise of such right of contract renewal; (ii) all persons who have custody of such documents; and (d) all persons who are familiar with such facts and/or documents.

Answer to 24:

The following is a list of players, for each year from 1966 to date, as to whom this team exercised a "right"

of contract renewal or option pursuant to the option clause in the NBA Uniform Player Contract:

1966:

None.

1967:

None.

1968:

None.

1969:

None.

1970:

None.

1971:

None.

1972:

None.

1973:

Stu Lantz

1974:

Not applicable. Detroit Pistons Basketball Club sold to Detroit Pistons Basketball Company on August 26, 1974.

1975:

See answer under 1974.

Of the players listed above, the following ulti-

mately achieved "free-agent" status:

None. Stu Lantz played the 1973-74 season under the option clause and was drafted by New Orleans in the expansion draft held in the Spring of 1974.

Interrogatory 28. (a) State your contention as to the form and meaning of the reserve compensation plan and all other means by which NBA teams have agreed to compensate other NBA teams with respect to players whose stated term of contract has expired and who sign a contract to play for another team, whether or not such reserve compensation plan is set forth in the Kennedy affidavit, and set forth each change in such meaning, the date of each such change and the reason for each such change. (b) identify all persons familiar with such understanding or interpretation.

Answer to 28:

Insofar as this interrogatory has not been objected to, see Answer No. 28 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 29. State (a) the place, date and manner in which the reserve compensation plan, as described in the Kennedy affidavit as heretofore stated, first went into effect in the NBA and (b) the purpose of such plan.

Answer to 29:

See answer No. 28 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 32. (a) State separately the basis for your contentions that: (i) the NBA reserve compensation plan is necessary to organize professional basketball as a league sport; (ii) the NBA reserve compensation plan preserves the competitive balance among the NBA teams and the intergrity of the sport; and (iii) the NBA reserve compensation plan benefits the NBA players, setting forth specifically all such benefits, and (b) identify: (i) all documents upon which you base these contentions; (ii) all persons who have custody of such documents; and (iii) all persons who are familiar with such contentions and/or documents.

Answer to 32:

See Answer No. 32 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSCAR ROBERTSON, et al.,

Plaintiffs,

-against-

NATIONAL BASKETBALL ASSOCIATION, et al.,

Defendants.

70 Civ. 1526 (RLC)

AMERICAN BASKETBALL ASSOCIATION, et al.,

Cross-claimants,

-against-

NATIONAL BASKETBALL ASSOCIATION, et al.,

Cross-defendants.

Supplemental Answers to Plaintiffs' First Set of Interrogatories By Defendant California Sports Incorporated

Defendant

makes the following supplemental answers to plaintiffs' First Set of Interrogatories.

Interrogatory 2. Identify as to each NBA member team identified in your answer to Interrogatory No. 1 to be a corporation for the period, each officer and director, and each person having an equity interest of 3 per cent or more in the business.

Answer to 2:

Insofar as this interrogatory seeks identification of this defendant's officers and directors, see this defendant's answer to Interrogatory No. 2 of the ABA's First Set of Interrogatories.

See Rider to No. 2 for the answer to the remainder of this interrogatory.

Answer to 21:

See Answer No. 21 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 22. (a) State the basis of your contention that the present NBA reserve or option clause as its exists in the form set forth in ¶22 of the Uniform Player Contract and/or any predecessor form thereof is or was the result of collective bargaining among the NBA players and/or their representatives and the NBA, the NBA teams and/or their representatives, and (b) identify: (i) all documents upon which you base this contention; (ii) all persons who have custody of such documents; and (iii) all persons who are familiar with such contention and/or documents.

Answer to 22:

See Answer No. 22 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 23. (a) Do you contend that the NBA players accepted or acquiesced in the NBA reserve or option clause in return for benefits from the NBA and its member teams, and (b) if so, identify: (i) each such benefit; (ii) all documents upon which such contention is based; (iii) all persons who have custody of such documents; and (iv) all persons who are familiar with such contentions and/or documents.

Answer to 23:

See Answer No. 23 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 24. Identify for each year during the period, each NBA player as to whom any NBA member team has exercised a "right" of contract renewal or option pursuant to the reserve or option clause, and as to each such player (b) state whether he ultimately achieved so-called "free agent" status as defined herein, and (c) identify: (i) all documents which in any way refer or relate to the exercise of such right of contract renewal; (ii) all persons who have custody of such documents; and (d) all persons who are familiar with such facts and/or documents.

Answer to 24:

The following is a list of players, for each year from 1966 to date, as to whom this team exercised a "right"

of contract renewal or option pursuant to the option clause in the NBA Uniform Player Contract:

From 1966 to the present there have been a number of occasions when California Sports, Incorporated has tendered contracts to Los Angeles players pursuant to paragraph 22 of the NBA Uniform Player Contract. In no case has any player to whom such a contract was tendered become a "free agent" if the term "free agent" refers to a player who ultimately signs to play and plays with another basketball team.

All California Sports, Incorporated documents which refer to or relate to the exercises of the options contained in paragraph 22 of the NBA Uniform Player Contracts have already been produced by California Sports, Incorporated in this action. At the present time, in fact, such documents are in the possession of the NBA's counsel. Therefore, CSI can not answer Interrogatory No. 24 by breaking down each player and each year specifically. Throughout the entire period involved, however, to the best of Caliifornia Sports, Incorporated's recollection, options have been exercised at least with respect to the following players:

Elgin Baylor
Wilt Chamberlain
Archie Clark
Mel Counts
Keith Erickson
Gail Goodrich
Connie Hawkins
Jim McMillian
Jerry West

Interrogatory 28. (a) State your contention as to the form and meaning of the reserve compensation plan and all other means by which NBA teams have agreed to compensate other NBA teams with respect to players whose stated term of contract has expired and who sign a contract to play for another team, whether or not such reserve compensation plan is set forth in the Kennedy affidavit, and set forth each change in such meaning, the date of each such change and the reason for each such change. (b) identify all persons familiar with such understanding or interpretation.

Answer to 28:

Insofar as this interrogatory has not been objected to, see Answer No. 28 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 29. State (a) the place, date and manner in which the reserve compensation plan, as described in the Kennedy affidavit as heretofore stated, first went into effect in the NBA and (b) the purpose of such plan.

Answer to 29:

See answer No. 28 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 32. (a) State separately the basis for your contentions that: (i) the NBA reserve compensation plan is necessary to organize professional basketball as a league sport; (ii) the NBA reserve compensation plan preserves the competitive balance among the NBA teams and the intergrity of the sport; and (iii) the NBA reserve compensation plan benefits the NBA players, setting forth specifically all such benefits, and (b) identify: (i) all documents upon which you base these contentions; (ii) all persons who have custody of such documents; and (iii) all persons who are familiar with such contentions and/or documents.

Answer to 32:

See Answer No. 32 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSCAR ROBERTSON, et al., Plaintiffs, -against- NATIONAL BASKETBALL ASSOCIATION, et al., Defendants.	:	70 Civ. 1526 (RLC)
AMERICAN BASKETBALL ASSOCIATION, et al., Cross-claimants, -against- NATIONAL BASKETBALL ASSOCIATION, et al., Cross-defendants.	:	

Supplemental Answers to Plaintiffs' First Set of Interrogatories By Defendant BOSTON CELTICS BASKETBALL CLUB, INC.

Defendant Boston Celtics Basketball Club, Inc. makes the following supplemental answers to plaintiffs' First Set of Interrogatories.

Interrogatory 2. Identify as to each NBA member team identified in your answer to Interrogatory No. 1 to be a corporation for the period, each officer and director, and each person having an equity interest of 3 per cent or more in the business.

Answer to 2:

Insofar as this interrogatory seeks identification of this defendant's officers and directors, see this defendant's answer to Interrogatory No. 2 of the ABA's First Set of Interrogatories.

See Rider to No. 2 for the answer to the remainder of this interrogatory.

Answer to 21:

See Answer No. 21 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 22. (a) State the basis of your contention that the present NBA reserve or option clause as it exists in the form set forth in ¶22 of the Uniform Player Contract and/or any predecessor form thereof is or was the result of collective bargaining among the NBA players and/or their representatives and the NBA, the NBA teams and/or their representatives, and (b) identify: (i) all documents upon which you base this contention; (ii) all persons who have custody of such documents; and (iii) all persons who are familiar with such contention and/or documents.

Answer to 22:

See Answer No. 22 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 23. (a) Do you contend that the NBA players accepted or acquiesced in the NBA reserve or option clause in return for benefits from the NBA and its member teams, and (b) if so, identify: (i) each such benefit; (ii) all documents upon which such contention is based; (iii) all persons who have custody of such documents; and (iv) all persons who are familiar with such contentions and/or documents.

Answer to 23:

See Answer No. 23 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 24. Identify for each year during the period, each NBA player as to whom any NBA member team has exercised a "right" of contract renewal or option pursuant to the reserve or option clause, and as to each such player (b) state whether he ultimately achieved so-called "free agent" status as defined herein, and (c) identify: (i) all documents which in any way refer or relate to the exercise of such right of contract renewal; (ii) all persons who have custody of such documents; and (d) all persons who are familiar with such facts and/or documents.

Answer to 24:

The following is a list of players, for each year from 1966 to date, as to whom this team exercised a "right"

of contract renewal or option pursuant to the option clause in the NBA Uniform Player Contract:

1966:

1967:

1968:

1969: Larry Siegfried

1970:

1971:

1972:

1973: John Havlicek

1974: Don Nelson
Steve Kuberski

1975: Don Chaney
Paul Westphal

Of the players listed above, the following ulti-

mately achieved "free-agent" status:

Don Chaney

Interrogatory 28. (a) State your contention as to the form and meaning of the reserve compensation plan and all other means by which NBA teams have agreed to compensate other NBA teams with respect to players whose stated term of contract has expired and who sign a contract to play for another team, whether or not such reserve compensation plan is set forth in the Kennedy affidavit, and set forth each change in such meaning, the date of each such change and the reason for each such change. (b) identify all persons familiar with such understanding or interpretation.

Answer to 28:

Insofar as this interrogatory has not been objected to, see Answer No. 28 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 29. State (a) the place, date and manner in which the reserve compensation plan, as described in the Kennedy affidavit as heretofore stated, first went into effect in the NBA and (b) the purpose of such plan.

Answer to 29:

See answer No. 28 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 32. (a) State separately the basis for your contentions that: (i) the NBA reserve compensation plan is necessary to organize professional basketball as a league sport; (ii) the NBA reserve compensation plan preserves the competitive balance among the NBA teams and the intergrity of the sport; and (iii) the NBA reserve compensation plan benefits the NBA players, setting forth specifically all such benefits, and (b) identify: (i) all documents upon which you base these contentions; (ii) all persons who have custody of such documents; and (iii) all persons who are familiar with such contentions and/or documents.

Answer to 32:

See Answer No. 32 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSCAR ROBERTSON, et al., Plaintiffs,	:	
-against-	:	70 Civ. 1526 (RLC)
NATIONAL BASKETBALL ASSOCIATION, et al., Defendants.	:	
AMERICAN BASKETBALL ASSOCIATION, et al., Cross-claimants,	:	
-against-	:	
NATIONAL BASKETBALL ASSOCIATION, et al., Cross-defendants.	:	

Supplemental Answers to Plaintiffs' First Set of Interrogatories By Defendant Riko Enterprises, Inc.

Defendant Riko Enterprises, Inc. makes the following supplemental answers to plaintiffs' First Set of Interrogatories.

Interrogatory 2. Identify as to each NBA member team identified in your answer to Interrogatory No. 1 to be a corporation for the period, each officer and director, and each person having an equity interest of 3 per cent or more in the business.

Answer to 2:

Insofar as this interrogatory seeks identification of this defendant's officers and directors, see this defendant's answer to Interrogatory No. 2 of the ABA's First Set of Interrogatories.

See Rider to No. 2 for the answer to the remainder of this interrogatory.

Answer to 21:

See Answer No. 21 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 22. (a) State the basis of your contention that the present NBA reserve or option clause as its exists in the form set forth in ¶22 of the Uniform Player Contract and/or any predecessor form thereof is or was the result of collective bargaining among the NBA players and/or their representatives and the NBA, the NBA teams and/or their representatives, and (b) identify: (i) all documents upon which you base this contention; (ii) all persons who have custody of such documents; and (iii) all persons who are familiar with such contention and/or documents.

Answer to 22:

See Answer No. 22 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 23. (a) Do you contend that the NBA players accepted or acquiesced in the NBA reserve or option clause in return for benefits from the NBA and its member teams, and (b) if so, identify: (i) each such benefit; (ii) all documents upon which such contention is based; (iii) all persons who have custody of such documents: and (iv) all persons who are familiar with such contentions and/or documents.

Answer to 23:

See Answer No. 23 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 24. Identify for each year during the period, each NBA player as to whom any NBA member team has exercised a "right" of contract renewal or option pursuant to the reserve or option clause, and as to each such player (b) state whether he ultimately achieved so-called "free agent" status as defined herein, and (c) identify: (i) all documents which in any way refer or relate to the exercise of such right of contract renewal; (ii) all persons who have custody of such documents; and (d) all persons who are familiar with such facts and/or documents.

Answer to 24:

The following is a list of players, for each year from 1966 to date, as to whom this team exercised a "right"

of contract renewal or option pursuant to the option clause in the NBA Uniform Player Contract:

1966:

1967:

1968:

1969:

1970:

1971:

1972:

1973:

1974:

1975: Fred Boyd
LeRoy Ellis
Coniel Norman

Of the players listed above, the following ulti-

lately achieved "free-agent" status:

None.

Interrogatory 28. (a) State your contention as to the form and meaning of the reserve compensation plan and all other means by which NBA teams have agreed to compensate other NBA teams with respect to players whose stated term of contract has expired and who sign a contract to play for another team, whether or not such reserve compensation plan is set forth in the Kennedy affidavit, and set forth each change in such meaning, the date of each such change and the reason for each such change. (b) Identify all persons familiar with such understanding or interpretation.

Answer to 28:

Insofar as this interrogatory has not been objected to, see Answer No. 28 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 29. State (a) the place, date and manner in which the reserve compensation plan, as described in the Kennedy affidavit as heretofore stated, first went into effect in the NBA and (b) the purpose of such plan.

Answer to 29:

See answer No. 28 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 32. (a) State separately the basis for your contentions that: (i) the NBA reserve compensation plan is necessary to organize professional basketball as a league sport; (ii) the NBA reserve compensation plan preserves the competitive balance among the NBA teams and the intergrity of the sport; and (iii) the NBA reserve compensation plan benefits the NBA players, setting forth specifically all such benefits, and (b) identify: (i) all documents upon which you base these contentions; (ii) all persons who have custody of such documents; and (iii) all persons who are familiar with such contentions and/or documents.

Answer to 32:

See Answer No. 32 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSCAR ROBERTSON, et al., Plaintiffs,	:	
-against-	:	70 Civ. 1526 (RLC)
NATIONAL BASKETBALL ASSOCIATION, et al., Defendants.	:	
AMERICAN BASKETBALL ASSOCIATION, et al., Cross-claimants,	:	
-against-	:	
NATIONAL BASKETBALL ASSOCIATION, et al., Cross-defendants.	:	

Supplemental Answers to Plaintiffs' First Set of Interrogatories By Defendant Buffalo Braves, Inc.

Defendant makes the following supplemental answers to plaintiffs' First Set of Interrogatories.

Interrogatory 2. Identify as to each NBA member team identified in your answer to Interrogatory No. 1 to be a corporation for the period, each officer and director, and each person having an equity interest of 3 per cent or more in the business.

Answer to 2:

Insofar as this interrogatory seeks identification of this defendant's officers and directors, see this defendant's answer to Interrogatory No. 2 of the ABA's First Set of Interrogatories.

See Rider to No. 2 for the answer to the remainder of this interrogatory.

Answer to 21:

See Answer No. 21 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 22. (a) State the basis of your contention that the present NBA reserve or option clause as its exists in the form set forth in ¶22 of the Uniform Player Contract and/or any predecessor form thereof is or was the result of collective bargaining among the NBA players and/or their representatives and the NBA, the NBA teams and/or their representatives, and (b) identify: (i) all documents upon which you base this contention; (ii) all persons who have custody of such documents; and (iii) all persons who are familiar with such contention and/or documents.

Answer to 22:

See Answer No. 22 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 23. (a) Do you contend that the NBA players accepted or acquiesced in the NBA reserve or option clause in return for benefits from the NBA and its member teams, and (b) if so, identify: (i) each such benefit; (ii) all documents upon which such contention is based; (iii) all persons who have custody of such documents; and (iv) all persons who are familiar with such contentions and/or documents.

Answer to 23:

See Answer No. 23 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 24. Identify for each year during the period, each NBA player as to whom any NBA member team has exercised a "right" of contract renewal or option pursuant to the reserve or option clause, and as to each such player (b) state whether he ultimately achieved so-called "free agent" status as defined herein, and (c) identify: (i) all documents which in any way refer or relate to the exercise of such right of contract renewal; (ii) all persons who have custody of such documents; and (d) all persons who are familiar with such facts and/or documents.

Answer to 24:

The following is a list of players, for each year from 1966 to date, as to whom this team exercised a "right"

of contract renewal or option pursuant to the option clause in the NBA Uniform Player Contract:

1966:

1967:

1968:

1969:

1970:

1971:

1972:

1973:

1974:

1975: Paul Ruffner

Of the players listed above, the following ulti-

mately achieved "free-agent" status:

Paul Ruffner

Interrogatory 28. (a) State your contention as to the form and meaning of the reserve compensation plan and all other means by which NBA teams have agreed to compensate other NBA teams with respect to players whose stated term of contract has expired and who sign a contract to play for another team, whether or not such reserve compensation plan is set forth in the Kennedy affidavit, and set forth each change in such meaning, the date of each such change and the reason for each such change. (b) identify all persons familiar with such understanding or interpretation.

Answer to 28:

Insofar as this interrogatory has not been objected to, see Answer No. 28 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 29. State (a) the place, date and manner in which the reserve compensation plan, as described in the Kennedy affidavit as heretofore stated, first went into effect in the NBA and (b) the purpose of such plan.

Answer to 29:

See answer No. 28 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

Interrogatory 32. (a) State separately the basis for your contentions that: (i) the NBA reserve compensation plan is necessary to organize professional basketball as a league sport; (ii) the NBA reserve compensation plan preserves the competitive balance among the NBA teams and the intergrity of the sport; and (iii) the NBA reserve compensation plan benefits the NBA players, setting forth specifically all such benefits, and (b) identify: (i) all documents upon which you base these contentions; (ii) all persons who have custody of such documents; and (iii) all persons who are familiar with such contentions and/or documents.

Answer to 32:

See Answer No. 32 of defendant NBA's Answers to Interrogatories, which is adopted by this defendant.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

OSCAR ROBERTSON, et al.,

Plaintiffs,

vs.

NATIONAL BASKETBALL ASSOCIATION, et al.,

Defendants.

No. 70 Civ. 1326 (RLC)

AMERICAN BASKETBALL ASSOCIATION, et al.,

Cross-Claimants,

vs.

NATIONAL BASKETBALL ASSOCIATION, et al.,

Cross-Defendants.

Deposition of WILTON NORMAN CHAMBERLAIN, taken on behalf of: For the National Basketball Association and all teams, except Madison Square Garden Center, Inc., and Madison Square Garden Corporation, at 16633 Ventura Boulevard, Encino, California, commencing at 10:50 a.m., Friday, January 30, 1976, before Jo Anne Wheatley, CSR 3035, pursuant to Notice.

APPEARANCES:

For Plaintiffs:	WEIL, GOTSHAL & MANGES BY: KENNETH LEMBERGER New York, New York 10022
For Wilton N. Chamberlain:	SCHATZEL & HAMRICK BY: THOMAS E. SCHATZEL 1333 Lawrence Expressway Suite 440 Santa Clara, California 95051
For the National Basketball Association and all teams, except Madison Square Garden Center, Inc., and Madison Square Garden Corporation:	PROSAKAUER, ROSE, GOETZ & MENDELSOHN BY: RICHARD L. WASSERMAN 300 Park Avenue New York, New York 10022

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EXHIBITS

CHAMBERLAIN	DESCRIPTION	IDENTIFIED
No. 1	Telegram, dated 10/14/75	29
No. 2	Uniform Player Contract, dated 4/24/59	32
No. 3	Uniform Player Contract, dated 4/16/60	34
Nos. 4 & 5	Uniform Player Contracts, dated 8/2/60	34
No. 6	Uniform Player Contract, dated 8/23/63	45
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No. 8	Uniform Player Contract, dated 8/17/65	53
No. 9	Uniform Player Contract, dated 9/22/66	55
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INFORMATION REQUESTED:

None.

ENCINO, CALIFORNIA; FRIDAY, JANUARY 30, 1976;10:50 A.M.

WILTON NORMAN CHAMBERLAIN,

having been duly sworn, testified as follows:

MR. WASSERMAN: I would like to state for the record that I have come 3,000 miles and I have received no documents produced by the witness, but I will take the deposition as best I can under the circumstances, but I would expect the witness to be produced in New York when his documents are produced should further examination be required.

MR. SCHATZEL: What documents do you want?

MR. WASSERMAN: In this case a document demand was attached to the Notice of Deposition sent to Mr. Chamberlain, and I would call for the documents that are set forth in that document demand. I will show you a copy of that.

MR. SCHATZEL: Do you ask for the documents?

MR. WASSERMAN: I have not been informed that there are no documents. The document demand was made of the witness. The request also goes to his counsel and persons within his control and, accordingly, I would expect, as has been done in other situations with other players whose depositions have been taken, to have counsel search their file.

MR. LEMBERGER: You realize, Mr. Wasserman, of course, this is not the same situation as with the other class members. It wasn't until the last few days that it was apparent that Mr. Chamberlain would have to give his deposition because of a lawsuit that is also pending in San Francisco.

Furthermore, I would like to state for the record that Mr. Chamberlain has no documents in his own home; that he has no documents at all relating to the period prior to 1967 due to a fire in his home and that it is my understanding that Mr. Goldberg's office is prepared to produce some documents today.

THE WITNESS: Not some. All the documents that we have that is necessary.

MR. WASSERMAN: Accordingly, I would like to see the documents.

MR. SCHATZEL: Fine.

MR. WASSERMAN: Let the record reflect that I have just been handed a set of documents.

MR. LEMBERGER: We would also like the record to reflect that Mr. Chamberlain, as well as Mr. Wasserman, has traveled 3,000 miles to be at this deposition.

THE WITNESS: And I am not getting paid for it.

MR. WASSERMAN: Mr. Schatzel, could I ask you a question? Are these all the documents responsive to this document demand? It has been read through and these

are the only documents that are responsive to that demand?

MR. SCHATZEL: To my understanding, yes.

MR. WASSERMAN: The document demand included all drafts of contracts. I was just asking whether you know whether a search had been made for drafts of contracts.

MR. SCHATZEL: To my knowledge.

EXAMINATION

BY MR. WASSERMAN:

Q Mr. Chamberlain, would you state your full name and address for the record.

A Wilton Norman Chamberlain, 15216 Antelo Place, Los Angeles, California, zip 90024.

Q Did you sign a contract as a player-coach with San Diego in September of 1973?

A I signed a contract as a coach with San Diego, yes; maybe player-coach, or it might have been just player, I am not sure.

Q Under that contract were you to receive the full compensation from San Diego if you coached but did not actually play for San Diego during the 1973/74 season?

MR. LEMBERGER: Objection. What does this have to do with the matters that you are supposed to be questioning Mr. Chamberlain about?

MR. WASSERMAN: This is a very relevant issue to this lawsuit.

MR. LEMBERGER: Perhaps you could explain it to me.

MR. WASSERMAN: I will be happy to do it out of the room, but not in the presence of the witness.

MR. LEMBERGER: Very good. Let's go off the record.

(Off-the-record discussion.)

MR. WASSERMAN: Read the question back.

(Record read.)

MR. LEMBERGER: I further object to the question on the grounds that the contract speaks for itself, but you may answer the question if you know the answer.

THE WITNESS: I don't know the answer. I don't remember what was said there if one didn't do whatever.

BY MR. WASSERMAN:

Q Did you understand that you would be paid if you only coached but did not actually play?

A I would imagine I was to be paid.

Q And that is in full under the contract?

A Performing, you know, yes.

Q Did you actually coach for San Diego during the 1973/74 season?

A Some say I did; some say I didn't. I say I did.

Q After the 1973/74 season were you contacted

by any team in the NBA about entering into a player contract in the NBA?

A Not that I know of.

Q Does that include to date?

A Does that include to date?

Q Yes. Any time from the end of the 1973/74 season to the present time.

A Well, you know, I only want to talk about 73/74.

Q Let's take it year by year, then.

During the summer after the 1973/74 season were you or any of your representatives contacted by any representative of the NBA or one of its teams?

A Yes.

Q By whom were you or your representative contacted?

A By a gentleman from Houston.

Q Who was that?

A I am not sure. He said he was the owner or one of the owners.

Q Did he contact you or your representative?

A He talked to myself and my representative.

Q Was that Mr. Goldberg?

A Uh-huh.

Q What did this person from Houston say?

A He just tried to make an offer.

Q Did he make an offer?

A He made a verbal offer, yeah.

Q Approximately when was this?

A At the same time I was getting ready to sign the contract with San Diego Conquistadors.

Q Was this after the end of the 1973/74 season?

A After my last season with the Lakers, right.

Q No. 73/74 is the season that you coached for --

A This is before, before the season.

Q This contact you had with Houston, then, was sometime prior to the 1973/74 season?

A Correct.

Q Do you have any recollection of what the offer of this person from Houston made was?

A No, I don't.

Q Do you know approximately what it was?

A Approximately, for a lot of money. Just how much, I don't remember. It was too vague at the time.

Q During the same period of time prior to the time that you signed with San Diego, were you contacted by any other teams other than Houston?

A Other than a formal contacting of the Lakers,

sending out a contract which came about, you know, I think a day or so before, you know, the legality of offering a contract -- 30 days before.

Q So, the Lakers was the only other team that contacted you?

A Yes.

Q After the end of the 1973/74 season you coached for San Diego were you contacted by any teams in the NBA?

A No.

Q Has any representative of yours been contacted at any time after the end of the 1973/74 season?

A Not that I know of.

Q When you say no, does this include at any time from the end of the 1973/74 season to date?

A I am only concerned with 73/74.

Q Is it your testimony that during the summer between the end of the 1973/74 season and the beginning of the 1974/75 basketball season you or your representatives were not contacted by any team in the NBA?

MR. LEMBERGER: To Mr. Chamberlain's knowledge?

THE WITNESS: To my knowledge, right. I just stated that already.

BY MR. WASSERMAN:

Q Did you hear or do you know whether Mr. Arthur Wirtz contacted you or Mr. Goldberg about your entering into a contract to play with Chicago?

MR. LEMBERGER: What period of time?

MR. WASSERMAN: Any time after the end of the 1973/74 season.

THE WITNESS: Any time after the 1973/74 season?

BY MR. WASSERMAN:

Q Yes.

A There may have been some calls from Mr. Wirtz.

Who is Mr. Wirtz?

Q He is the owner of the Chicago NBA team.

A Chicago Bulls?

Q Yes.

A There may have been some calls from him, but I don't know whether it was the contact to play for the Bulls, since I think that would be illegal tampering.

Q I think the record in the case will reflect that Mr. Wirtz has spoken to Mr. Cooke about contacting you.

A Oh, he did?

Q Yes.

A Well, not to my knowledge, you know.

Q Do you recall any contact from Mr. Wirtz

during this period of time?

A I recall Mr. Wirtz calling, you know.

Q What did --

A But, he didn't state at the time that he was the owner of the Chicago Bulls. I mean, someone calling for him. I don't know. It could be a number of people.

Q What was stated by Mr. Wirtz or whoever this was that called?

A He relayed something. . .

Q Did he try to make arrangements to meet with you?

A I don't know because I didn't answer the call at that particular time. I was unavailable.

Q Did Mr. Goldberg have any conversations with Mr. Wirtz?

A I am not sure.

Q Did you at any time meet with Mr. Wirtz?

A I have talked to Mr. Wirtz several times.

Q Did you have any meetings with Mr. Wirtz?

A Chance meetings when he was in L. A. on business.

Q What was discussed during these meetings?

A Nothing, other than the fact that if I were ever available that he might like to talk to me about joining the Bulls.

Q At the end of the 1973/74 season with San Diego, did you consider yourself free of the San Diego contract in the sense that you could negotiate to enter into a contract with another professional basketball team?

A After the 73/74 season? Yes.

Q Did you tell Mr. Wirtz this?

A No.

Q For what reason did you consider yourself free of your San Diego contract?

MR. LEMBERGER: Objection to form, but you may answer.

THE WITNESS: Well, the reason I considered it because there had been a court order saying that I couldn't play for a year or couldn't play for the following season.

BY MR. WASSERMAN:

Q Was your contract with San Diego for only one year?

A My contract for San Diego was for three years, I believe, or two years, but it was kind of retroactive, you know. There was some clauses in there.

Q For what reason did you think yourself free of your San Diego contract which was a contract for a longer period of time than one year?

A Because the contract hadn't been fulfilled.

Q It had not been fulfilled?

A (No audible response.)

Q That was by San Diego?

A (Witness shakes head.)

MR. LEMBERGER: The witness indicated yes.

BY MR. WASSERMAN:

Q In what respect had it not been fulfilled?

A Payment of money due.

Q Did you or your representative inform San Diego that they had not fulfilled their contractual obligation?

MR. LEMBERGER: Objection. I direct the witness not to answer the question.

MR.WASSERMAN: On what grounds?

MR. LEMBERGER: On the grounds it is beyond the scope of this deposition. It is absolutely irrelevant to the issues that you are supposed to be questioning him about.

MR. WASSERMAN: I would like to make it clear for the record that we believe that this case involves both a player aspect and an ABA aspect and throughout the depositions of players conducted in this case we have been permitted to ask questions relevant to both the player and the ABA aspects of the case which we feel are perfectly proper questions in the light of the nature of this case.

Furthermore, I would like to state that I think the question I just asked Mr. Chamberlain is relevant to his contract negotiations which are a subject relevant to the player aspect of this litigation.

MR. LEMBERGER: Mr. Wasserman, with regard to your last point, Mr. Chamberlain has already stated that he believed he was free of that contract because San Diego had breached the contract. You don't need any more in that regard.

With regard to the first part of your statement, if you wanted Mr. Chamberlain to testify as to the cross-claim in this case between the ABA and the NBA, you should have noticed his deposition as a third-party witness. He has not been so noticed and, in fact, he has been noticed as a class member.

The judge has deliberately delineated those areas in which the class members are permitted to testify and those areas in which you are permitted to ask him questions, and in asking him about San Diego's breach of contract, you are going beyond the scope of the deposition as set out by the judge. I have taken this position before with respect to Mr. Beaty's deposition. Your firm is well aware of that and I will continue to do so in Mr. Chamberlain's deposition.

MR. WASSERMAN: I would like the record to reflect that in the many depositions I have been involved in that

preclusion of this kind of questioning has not occurred. In fact, other attorneys in your office have allowed questioning to be addressed to the ABA aspect of the case.

MR. LEMBERGER: I have allowed you to address certain questions to that side of the case, but it is of no consequence to Mr. Chamberlain's position as a class member as to how and why and when San Diego breached this contract, and with that position being known, I think we should move on to something else.

MR. WASSERMAN: I think the factual circumstances under which a breach of contract between Mr. Chamberlain and San Diego occurred is very relevant to any subsequent negotiations between Mr. Chamberlain and any teams in the NBA and, accordingly, I think it is very relevant to the aspects that can be inquired into even on the player side of this case.

MR. LEMBERGER: If that is what you are trying to get, Mr. Wasserman, I suggest you ask the proper questions just as Mr. Mishkin found the proper questions to ask when I made this objection in Mr. Beaty's deposition.

MR. SCHATZEL: Let's go on to the next question. I am not going to fill the record up any more.

MR. WASSERMAN: I think the last question that I asked the witness which you directed him not to answer

was a perfectly proper question along the lines of inquiring as to the nature of the breach and whether it was that San Diego was aware that Mr. Chamberlain believes his contract to have been breached and therefore considered himself able to negotiate freely with NBA teams.

MR. LEMBERGER: Mr. Chamberlain has already stated he believed he was free, and if you don't like my direction not to answer, you can always go to a judge.

BY MR. WASSERMAN:

Q The discussions that you had with Mr. Wirtz, did they reach the level of any kind of proposal that was made by Mr. Wirtz?

MR. LEMBERGER: Objection to form. When you say proposal, do you mean an offer of a contract?

MR. WASSERMAN: Or terms of a contract.

THE WITNESS: Terms of a contract? No, because he never had the legal right to offer a contract, as I mentioned before.

BY MR. WASSERMAN:

Q Irrespective of whether he had the legal rights, were there terms mentioned?

A Not that I remember.

Q Do you recall any mention of a minimum guarantee plus a percentage on increased gate over a certain figure?

A No. I don't recall.

Q Do you recall anything to that effect being discussed?

A I recall there was a lot of conversation, but most of the conversation was, you know, of an innocent nature because, as I said before, he didn't have the legal rights to.

Q Did you at any time indicate to Mr. Wirtz what it was that you wanted in order to enter into a player contract to play for Chicago?

A What I wanted?

Q Yes.

A No.

Q At about the time that you were talking to Mr. Wirtz did you have any contact from any other teams in the NBA?

A No.

Q Did you have any discussions with the Lakers about that time?

A No.

Q Did your representative, Mr. Goldberg?

A Not that I know of. I would say no.

Q At any time during the 1974/75 professional basketball season did you or your representative have any contact from any NBA representative?

A 74/75? No, not that I know of.

Q And no time during the course of that season were you or Mr. Goldberg contacted by any representative of any NBA team?

A Mr. Goldberg may have been contacted, yes. He may have.

MR. LEMBERGER: Mr. Wasserman, you used the word "contact." You mean for the purpose of engaging Mr. Chamberlain's services as a basketball player?

MR. WASSERMAN: Yes, or beginning to have the first stages of discussion toward that end.

MR. LEMBERGER: You don't mean just nonsalient kinds of meetings?

MR. WASSERMAN: Correct.

MR. LEMBERGER: Because I am sure he has.

THE WITNESS: Exactly. Also, when you say contact me, anyone could call and say that they were a, you know, a representative and so on and so forth of a particular organization or whatever, which I have gotten, you know, a number of times.

MR. LEMBERGER: I think Mr. Wasserman is referring only to bona fide --

MR. WASSERMAN: Not necessarily what you consider to be legal because I don't need any conclusion of what was legal or what was not legal.

THE WITNESS: The answer would be no, then.

BY MR. WASSERMAN:

Q By which organization was Mr. Goldberg contacted?

A I am not sure.

Q Did you ever hear of any that he was contacted by?

A I am really not sure.

Q After the end of the 1974/75 professional basketball season, were you or your representative contacted by any teams in the NBA?

A Isn't that the question you just asked?

Q No. The last question was during the course of the 74/75 season.

A After 74/75 was I contacted by any representative of any teams in the NBA?

Q Yes.

A No, I wasn't.

Q Was Mr. Goldberg?

A He may have been.

Q What teams did you hear that he was contacted by?

A I don't know whether he was contacted by or he had conversation with the New York Knicks, I think.

Q Any other teams other than the New York Knicks?

A Not that I know of.

Q When were the conversations that Mr. Goldberg had with the New York Knicks?

A When were they?

Q Yes.

A I am not really sure, but could have been in July, August, June.

Q What was discussed between Mr. Goldberg and the Knicks?

A What was discussed?

Q Yes.

MR. LEMBERGER: If you know.

THE WITNESS: If I know, yes.

Maybe whether I was interested in playing with the Knicks.

BY MR. WASSERMAN:

Q Do you know who it was from the Knicks that Mr. Goldberg has contacted?

A I am not really sure. I think it could have been several people from, you know, the owner on down to the general manager or whatever.

Q Did you hear that he had conversations with Mr. Burke?

MR. LEMBERGER: I am objecting to the form, Mr. Wasserman. Are you asking whether he knows or whether he heard or either?

MR. WASSERMAN: The question was, did he hear.

MR. LEMBERGER: So, you are not asking whether he knows?

MR. WASSERMAN: I am asking whether he heard that Mr. Goldberg had conversations with Mr. Burke.

THE WITNESS: Just representation from that particular -- I don't even really know who Mr. Burke is.

MR. WASSERMAN: I think the record will reflect that he is the owner of the New York Knicks.

MR. LEMBERGER: An owner.

THE WITNESS: He is the owner?

MR. WASSERMAN: I don't know what the actual structure of the Knicks' organization is, but he is one of the people who is identified with the ownership of the New York Knicks. He may actually be an officer.

Off the record.

(Off-the-record discussion.)

BY MR. WASSERMAN:

Q Did you hear that Mr. Burke had conversations with Mr. Goldberg?

A As I said before, a representative. I don't really know who he was talking to. It could have been several people. I don't recall Mr. Burke's name specifically, but it may have been.

Q Did you hear Mr. Donovan's name mentioned?

A I repeat my answer. I don't know exactly

who it was he was talking to. It could have been several people. I am not really sure.

I also talked to Mr. Burke and Mr. Donovan.

Q When did you talk to Mr. Burke and Mr. Donovan?

A In September.

Q This is September of 1975?

A Yes.

Q Still going back to the summer months of 1975, the conversations that Mr. Goldberg had with representatives of the New York Knicks --

A Yes.

Q -- were any specific or general contractual terms discussed?

A General contractual terms?

MR. LEMBERGER: Objection to form. Are you talking about money?

MR. WASSERMAN: Money or any kind of terms.

THE WITNESS: No, not that I know of, no.

BY MR. WASSERMAN:

Q Did the Knicks' representative or representatives make any offer to Mr. Goldberg?

A Offer of money?

Q Money or any kind of compensation.

A Not that I know of.

Q Did Mr. Goldberg indicate to the

representatives of the Knicks what it was that you wanted in order to play for the Knicks?

A Not that I know of.

Q Other than generally discussing the possibility of playing for the Knicks, do you recall in any further detail what it was that was discussed between Mr. Goldberg and the representative of the Knicks?

A No.

Q Was there any meeting that was arranged between the representatives of the Knicks and yourself during those discussions?

A Not between myself and the Knicks, no.

Q Did you have discussions with Mr. Goldberg about the fact that the Knicks had contacted Mr. Goldberg?

A Yes.

Q After the time that you had conversations with Mr. Goldberg about that, did Mr. Goldberg subsequently get back in touch with the Knicks?

A Not that I know of, no.

Q Did the Knicks get back in touch with Mr. Goldberg?

A I think they may have called him thereafter.

Q What was said during that conversation?

A I am not sure.

Q Did Mr. Goldberg indicate that you were not interested in playing for the Knicks?

MR. LEMBERGER: To the Knicks?

MR. WASSERMAN: To the Knicks.

THE WITNESS: Did he indicate that I was not interested? I don't think he did, no.

BY MR. WASSERMAN:

Q Did he indicate that you were interested in playing for the Knicks?

A I don't think he did, no.

Q Were there any discussions in this subsequent conversation about contractual terms?

A Not that I know of.

Q Do you have any recollection of what was discussed in this subsequent conversation?

MR. LEMBERGER: When you say recollection, you are asking Mr. Chamberlain for recollection of a conversation in which he was not present?

MR. WASSERMAN: But, he may well have heard what was discussed between the Knicks and Goldberg.

MR. LEMBERGER: You are asking if he ever heard?

MR. WASSERMAN: It is a recollection and it is a recollection of what he heard happened in the conversation. I grant you that there is an intermediary step, but it is certainly recollection.

MR. LEMBERGER: I want the record to be clear on that.

MR. WASSERMAN: The record is obviously clear on

that.

THE WITNESS: Would you repeat the question, please.

BY MR. WASSERMAN:

Q Do you have any recollection as we have just discussed it about what it was that was discussed during the subsequent conversation with the Knicks?

A No, other than, you know, that some interest was being shown.

Q What did Mr. Goldberg say to the Knicks during that conversation, if you know?

A I think Mr. Goldberg was just listening.

Q What did the Knicks say to Mr. Goldberg?

A That some interest, I guess, was being shown.

Q How did that conversation end? Was there to be subsequent meetings or conversations between the Knicks and Mr. Goldberg?

A End the conversations or that conversation? You know, all of them?

Q All of them as best you can recall.

A I think they ended in a suit against the NBA.

Q Who brought suit?

A I did.

Q And you are referring to the suit that was filed recently, and by that I mean in December of 1975?

A Correct.

Q How did the discussions themselves as distinguished from the subsequent series of events, how did the discussions themselves end with the Knicks, again during the summer months of 1975?

MR. LEMBERGER: Are you asking about the discussions between Goldberg and the Knicks?

MR. WASSERMAN: Yes.

THE WITNESS: How did they end?

BY MR. WASSERMAN:

Q Yes.

A I don't know whether they ever ended.

Q I believe you testified that in September of 1975 you had a meeting with Mr. Burke and Mr. Donovan; is that correct?

A I said I met with them, not a meeting -- quite by coincidence. I was at Madison Square Garden. I was promoting a volleyball match.

Q Were there any discussions about a professional basketball contract during that meeting?

A No, there were not.

Q Were there any just general discussions about your playing with the Knicks during that meeting?

A No, there were not.

Q Did you ever hear that Mr. Burke and Mr. Donovan or any representative of the Knicks had come

out to Los Angeles to talk to you about entering into a player contract?

A Yes, I did hear that, or either I read it.

Q Do you know when that was?

A It had to be when I was in Hawaii, which had to be maybe late September or early October.

Q Did you hear that Mr. Burke and Mr. Donovan or some representative of the Knicks had had conversations with Mr. Goldberg before they came out to Los Angeles?

A I am sure that they probably did have conversations. As I said before, I am not sure of the specific times. It could have been before.

Q What was discussed in those conversations that you were referring to?

A An interest that the Knicks had.

Q Were there any discussions about compensation or any other contractual proposals?

MR. LEMBERGER: Objection. Mr. Wasserman, we have gone over this ground before. You are asking him about the very same conversations.

MR. WASSERMAN: I think we are now in September. Before we were during the summer months.

MR. LEMBERGER: Mr. Wasserman, you asked if Mr. Burke or Donovan had had conversations with Goldberg prior to their coming out in September and I

think Mr. Chamberlain made it clear that the conversations he knew about are the conversations that took place in the summer which you have already probed at great length.

BY MR. WASSERMAN:

Q The conversations you were referring to, were those same conversations during the summer?

A Yes.

Q Did you hear that there were any conversations with Mr. Goldberg and a representative of the Knicks in September of 1975?

A There may have been some. As I said before, July or -- there may have been some.

Q Were there any in September of 1975?

A I think there were some in September.

Q What was discussed during those conversations?

A Same thing that was discussed in the earlier ones, I believe.

Q Was there any proposal of any kind made during those conversations?

A Not that I know of.

Q Did Mr. Goldberg indicate during those conversations what it was that you wanted to play basketball for the Knicks?

A No.

Q Did Mr. Goldberg during the September conversations indicate to the representatives of the Knicks that they should come out to Los Angeles to meet with you?

A Not that I know of.

Q Did Mr. Goldberg try to arrange any meeting between yourself and representatives of the Knicks?

A Not that I know of.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 1 a copy of a telegram which is dated October 14, 1975. It is sent to Seymour S. Goldberg.

(Whereupon, the above-mentioned document was marked Chamberlain Exhibit 1 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I am going to show you Chamberlain Exhibit 1 and ask you whether you have ever seen that telegram or a copy of that telegram before.

A This was sent on the 14th?

Q That is when it is dated, yes.

A No, I have never seen that.

Q Did you ever hear that such a telegram had been received by Mr. Goldberg?

A No.

Q Did you ever hear that the Commissioner in the NBA had declared you free to sign with any team in the NBA?

A Yes.

Q How did you hear that?

A I think through conversation or either by reading in the newspaper.

Q Did you hear this at about the time of the date of this telegram, October 14, 1975?

A Could be.

Q After hearing that the Commissioner had said that you were free to sign with any team in the NBA, did you have any conversation or did your representative have any conversations with any teams in the NBA?

A Not that I know of, but it could be. I didn't personally.

Q Did you hear that Mr. Goldberg had had any contacts with any teams in the NBA, either initiated by teams or initiated by Mr. Goldberg?

A I am not sure.

Q Do you know whether the last series of conversations between Mr. Goldberg and representatives of the Knicks was prior to October 14, 1975?

A I couldn't tell you that.

Q Was it prior to the time that you heard that

the Commissioner had said that you were free to sign with any team in the NBA?

A Couldn't tell you that.

MR. WASSERMAN: Let's go off the record for a second.

(Off-the-record discussion.)

BY MR. WASSERMAN:

Q Has any team or representative of any team in the NBA indicated to you or to your representative that they could not talk to you about entering into a player contract because of the possibility that that team would have to pay compensation to Los Angeles?

A Specifically that?

Q Yes.

A No, not to me personally.

Q To Mr. Goldberg, to your knowledge?

A I have no knowledge of that.

Q Did you attend college at Kansas?

A Yes.

Q Were you drafted by the Philadelphia team in the NBA?

A Yes.

Q What was your reaction when you heard that you had been drafted by Philadelphia in the NBA?

A No reaction.

Q Did there come a time when you entered into

contract negotiations to play with Philadelphia?

A Did there come a time?

Q Yes.

A Yes.

Q Was that sometime in 1959?

A Yes, I think it was.

MR. LEMBERGER: Off the record.

(Off-the-record discussion.)

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 2 a copy of a Uniform Player Contract, dated the 24th day of April, 1959, between Philadelphia Warriors, Inc. and Wilton N. Chamberlain.

(Whereupon, the above-mentioned document was marked Chamberlain Exhibit 2 for identification.)

MR. LEMBERGER: I ask you on the record whether that document bears a production number.

MR. WASSERMAN: This document does not appear to bear a production number.

MR. LEMBERGER: Before you ask any questions of Mr. Chamberlain, I would like to look at that contract because it has not been provided to us.

MR. WASSERMAN: Let me at the same time give you a series of Uniform Player Contracts which I plan to introduce as Chamberlain Exhibits 3, 4, and 5 which also do not bear production stamp numbers so that you can look

at all of them at the same time.

MR. LEMBERGER: I would like the record to reflect, too, that I have traveled 3,000 miles for the deposition without seeing these.

MR. WASSERMAN: I think you know as in other depositions that contracts in the NBA prior to a certain date have not routinely been produced and you know that they have been produced at the time of depositions, so you certainly could have asked if you wanted to look at those contracts.

MR. LEMBERGER: That is a nice self-serving statement, but you too knew that you were going to take Mr. Chamberlain's deposition.

MR. WASSERMAN: We didn't know until very recently that we were going to be taking his deposition.

THE WITNESS: Let me see one of those a second, please.

MR. WASSERMAN: Off the record.

(Off-the-record discussion.)

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 3 a copy of a Uniform Player Contract, dated the 16th day of April, 1960, between Philadelphia Warriors, Inc., and Wilton N. Chamberlain.

I will ask the reporter to mark as Chamberlain Exhibit 4 a copy of a Uniform Player Contract, dated the 2nd day of August, 1960, between Philadelphia

Warriors, Inc. and Wilton N. Chamberlain.

I will ask the reporter to mark as Chamberlain Exhibit 5 a copy of a Uniform Player Contract, dated the 2nd day of August, 1960, between Wilton N. Chamberlain and Philadelphia Warriors, Inc.

MR. LEMBERGER: Is that three contracts in 1960?

MR. WASSERMAN: Yes, it is three. Maybe we should identify the distinction between them.

MR. LEMBERGER: You gave the dates.

MR. WASSERMAN: The dates are the same on Exhibits 4 and 5.

MR. LEMBERGER: You said August 2nd?

MR. WASSERMAN: They are both August 2nd. One has in Paragraph No. 1 -- I am referring to Chamberlain Exhibit 4 -- typed-in numbers "61" and in Chamberlain Exhibit 5 in the first paragraph has typed-in number "62."

(Whereupon, the above-mentioned documents were marked Chamberlain Exhibits 3, 4 and 5 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I show you what has been marked as Chamberlain Exhibit 2 and ask you whether that is a copy of your 1959 contract with Philadelphia?

A I think it is. I mean, you know. . .

Q Do you recognize your signature on the

second page?

A So many people can write like me, I don't know. I reckon that is my signature. That looks like it could be mine. I wouldn't swear to it.

Q Do you have any reason to think that it is not?

A I have no reason to think it is not, no, except that I have seen so many people mimic my signature of late and since I changed my signature so much myself. I am not a very consistent writer.

Q In connection with your contract negotiations leading up to the signing of your 1959 contract with Philadelphia were you represented or assisted by anyone?

A Yes, I think so. Ike Richman.

Q Were you represented or assisted by anyone other than Mr. Richman in connection with that contract?

A No.

Q For how many years or in connection with which contracts did Mr. Richman assist or represent you?

A Up until the time of his decease.

Q Do you recall when that was?

A I think that was '66, '65 or '66.

Q Other than Mr. Richman and Mr. Goldberg, has anyone else assisted you or represented you in connection with any of your basketball contract negotiations?

A No.

Q During the negotiations which led up to the signing of your 1959 contract with Philadelphia what did you ask for from Philadelphia?

A What did I ask for?

Q Yes.

A I am not really sure, except a lot of money.

Q Do you recall approximately how much money?

A No, I am not really sure.

Q Do you know who it was who first made a proposal in connection with your 1959 contract, whether it was Philadelphia or either yourself or Mr. Richman?

A Who it was?

Q Yes. Who first made a proposal? I mean, who contacted who? Who first proposed an amount of money?

A I think it was Philadelphia.

Q Do you recall how much they proposed originally?

A No, not exactly.

Q Just approximately?

A Approximately $65,000, maybe, $50,000.

Q Did you or Mr. Richman counterpropose an amount of money?

A I am not really sure. I don't remember.

Q Do you recall approximately how much it was that you wanted for your contract in 1959?

A No.

MR. LEMBERGER: When you say you wanted, what are you referring to?

MR. WASSERMAN: How much money?

THE WITNESS: No, I don't recall.

BY MR. WASSERMAN:

Q And you have no recollection as to how much it was that you asked for in connection with your 1959 contract?

A No, I don't.

Q You have no idea what the neighborhood of the amount is?

A No.

Q The contract which is Chamberlain Exhibit 2 says, "$1 and other considerations" in Paragraph 2.

Do you recall how much it was, the total amount of money that you agreed upon with Philadelphia in 1959?

A I can't recall now.

Q Do you recall approximately how much it was?

A No. I can't even recall approximately.

Q Do you have any recollection of how much money you received for playing for Philadelphia during the 1959/[illegible]0 season?

A No, I don't.

MR. LEMBERGER: You just asked him that.

BY MR. WASSERMAN:

Q In the discussions leading up to your 1959 contract were there discussions of any other terms or provisions of a player contract other than the amount of money that you would be paid?

A Maybe, but I don't recall. It may have been, but. . .

Q Was there any discussion of a no-cut contract?

A I don't recall.

Q Was there any discussion about a no-trade provision or any modification of the trading provision?

A I don't recall.

Q Was there any discussion about modifying or eliminating the so-called reserve or option clause?

A Not that I recall.

Q Was your 1959 contract with Philadelphia a no-cut contract?

A I can't recall.

Q Mr. Chamberlain, I will show you what has been marked as Chamberlain Exhibit 3 and ask you whether that is a copy of a contract that you signed with Philadelphia in or about April of 1960?

A It very well could be.

Q The monetary provision is blank in

Chamberlain Exhibit 3. Do you have any recollection of signing a contract with a monetary provision that was blank?

A No, I don't have any recollection of it. It seems rather strange to me.

Q Do you recall at the end of the 1959/1960 season entering into contract negotiations for the next season?

A Do I recall? I recall retiring, I believe.

Q This was after your first season with Philadelphia?

A Right, uh-huh.

Q Did you announce your retirement to Philadelphia?

A Yes.

Q What did Philadelphia say to you when you announced your retirement?

A "Oh, no."

I don't know. I am not exactly sure what they said.

Q Did they indicate to you that they were interested in entering into a contract for you to play with them for the next season?

A Yes.

Q And did you subsequently enter into contract negotiations with Philadelphia?

A Yes.

Q And did Mr. Richman assist you in connection with those contract negotiations?

A Yes.

Q Do you recall when it was that the contract negotiations began?

A Maybe --

MR. LEMBERGER: Don't guess.

THE WITNESS: I think I know. Sometime around maybe in May because I went with the club to Europe every year. I think it was in May.

BY MR. WASSERMAN:

Q I will show you again Chamberlain Exhibit 3 which is dated April 16th. Do you have any recollection of whether you were having contract negotiations with Philadelphia in or about April of 1960?

A Possibly, yes.

Q Who was it that first made a proposal as to amount of money in connection with your 1960 contract?

A I am not sure.

MR. LEMBERGER: You know, Mr. Wasserman, we really could move this along a little faster. We have been through 70 of these already and we are dealing with a subject that is 15 years old, and I think perhaps if we go over it in a little less detail than you are doing right now, we won't be missing much.

MR. WASSERMAN: I think, as you know, that the contracts are a little unusual, particularly the early years.

MR. LEMBERGER: I just don't understand why it is important to determine whether it was April or May of 1960.

BY MR. WASSERMAN:

Q What did you want in the way of compensation in 1960 from Philadelphia?

A Money.

Q Do you recall approximately how much?

A No.

Q Do you have any recollection what the neighborhood figure was?

A No.

Q I show you what has been marked as Chamberlain Exhibit 4 and ask you whether this is a copy of a Uniform Player Contract that you entered into with Philadelphia in 1960?

A It seems to be, yes.

Q It says here in the amount of money indicated in Paragraph 2 the figure $50,000. Do you recall that your 1960 contract with Philadelphia was for the sum of $50,000?

A No, I don't recall.

Q Do you recall whether it was a sum other

than $50,000?

A I don't recall.

Q In connection with your 1960 contract negotiations with Philadelphia were there any discussions about a no-cut contract?

A I can't recall.

Q Were there any discussions about a no-trade provision or some other modification of the trading provision?

A I can't recall.

Q Was there any discussion of modification or elimination of the so-called reserve or option clause?

A I can't recall.

Q I will show you what has been marked as Chamberlain Exhibit 5 and ask you whether this is a copy of a contract that you signed with Philadelphia in or about August of 1960?

A It says August 2nd, right?

Q Correct.

A Seems like it is.

Q Did you sign in August 1960 a contract or two contracts that had the effect of being a two-year contract with Philadelphia?

A I don't recall, but it could be.

Q Do you recall any discussions about entering into a two-year contract with Philadelphia in 1960?

A Not exactly.

Q Do you have any general recollection of that?

A Not really.

Q At any time during the 1960/61 season, the summer between the 61/62 season, or during the 1961/62 season, did you seek to renegotiate your contract with Philadelphia?

A No. I don't think I did, no.

Q In Chamberlain Exhibit 5 in Paragraph 2 the amount of money written is $50,000. Was that the sum of money that you received for playing for Philadelphia during the 1961/62 season?

A I don't recall.

Q At the end of the 1961/62 season did you enter into negotiations for playing for Philadelphia during the 1963/64 season?

A Did I enter into. . .

Q Into negotiations for a new contract?

A 63/64 season?

Q Yes. This is after the -- no. This is after 61/62.

MR. LEMBERGER: I thought you made a mistake.

MR. WASSERMAN: Let me get this straight.

THE WITNESS: Let me discuss something with you a second.

(Off-the-record discussion.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, to clear up a little confusion, Exhibits 3, 4 and 5, all signed in 1960, appear to cover three seasons: the 1960/61 season in Exhibit 3; the 1961/62 season in Exhibit 4; the 1962/63 season in Exhibit 5.

Do you recall in 1960 what it was that you signed, whether you signed three years' worth of contracts or what the series of contracts were that you signed in 1960?

A I right now have no idea.

Q Do you recall discussions in 1960 about entering into contracts to cover three seasons of playing with Philadelphia?

A No, I don't recall.

Q Do you have any recollection of what it was that you received for the 1960/61 season, 1961/62 season or 1962/63 season?

A I really don't.

Q At the end of the 1962/63 season did you enter into contract negotiations for the next season?

MR. LEMBERGER: You mean at some point in time after this?

MR. WASSERMAN: Yes.

THE WITNESS: I must have. I guess I did, but I

don't really recall when.

BY MR. WASSERMAN:

Q Do you have any recollection of what it was that you wanted in your 1963 contract with Philadelphia or then San Francisco team?

A Other than more money, no.

Q Do you recall that the Philadelphia team had moved to San Francisco?

A I recall.

MR. LEMBERGER: It is hard to miss that.

BY MR. WASSERMAN:

Q Do you have any recollection of approximately how much money you wanted for the 1963/64 season?

A No, no.

Q In connection with your contract for the 1963/64 season were there any discussions about a no-trade provision or modifications of the trading provision?

A I don't recall.

Q Were there any discussions about modifying or eliminating the so-called reserve or option clause?

A No, not that I know. I don't recall.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 6 a copy of a Uniform Player Contract, dated the 23rd day of August, 1963, between the San Francisco Warriors and Wilton N. Chamberlain.

(Whereupon, the above-mentioned

document was marked Chamberlain Exhibit 6 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I show you what has been marked as Chamberlain Exhibit 6 and ask you whether this is a copy of your 1963 contract with the San Francisco Warriors?

A It seems to be.

Q Once again, this contract says in Paragraph 2 "$1 and other considerations."

Do you have any recollection of what it was that you were to receive for playing for San Francisco during the 1963/64 season?

A No, I don't.

MR. LEMBERGER: Other than the fact that it was money?

THE WITNESS: Yes.

BY MR. WASSERMAN:

Q At any time during the course of your career in the NBA, have you ever had any discussions about a no-trade clause or modifying the trading provisions of the Uniform Player Contract?

MR. LEMBERGER: Discussions with whom?

MR. WASSERMAN: With anyone from any of the NBA teams.

THE WITNESS: A no-trade?

BY MR. WASSERMAN:

Q Or any modification of the trading provisions; for instance, a no-trade without your approval provision.

A Yes.

Q And in connection with which of your contracts have you had such a discussion?

A Well, the only one that I can remember is my last one.

Q And by that you mean your last contract with Los Angeles?

A Yes.

Q Do you have any recollection of any other such discussions with any of the other teams that you played for?

A No, I don't, but I might have.

Q At any time during your career have you had discussions about modifying or eliminating the so-called reserve or option clause in your NBA player contract?

A Not that I know of.

Q Have you ever asked for that provision to be modified or eliminated in your contract?

MR. LEMBERGER: Objection to form, Mr. Wasserman. You continually persist to ask the same question more than one time.

Now, I have noted my objections in

many other depositions and I know it doesn't do much good, but you are asking the very same question with different words. It just takes up and wastes an awful lot of time.

THE WITNESS: He is trying to trip me up.

MR. LEMBERGER: I don't want to say that he is trying to do that. All I am saying is he is asking a lot of unnecessary questions.

BY MR. WASSERMAN:

Q Was your answer no to that question?

A What was the question? Repeat the question.

(Record read.)

THE WITNESS: No, I don't think so. I don't recall.

BY MR. WASSERMAN:

Q At the end of the 1963/1964 season did you enter into negotiations with San Francisco for a new player contract?

A I think so. I don't recall, though.

Q Do you recall discussions with San Francisco about entering into a contract to play for the 1964/65 season?

A If I didn't have a contract, I probably did.

Q Do you recall how much it was that you

wanted in your contract for the 1964/65 season?

A Probably just more than what it was in 63/64 season.

Q And you have no recollection how much that was?

A No recollection.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 7 a copy of a Uniform Player Contract, dated the 18th day of August, 1964, between San Francisco Warriors and Wilton N. Chamberlain.

(Whereupon, the above-mentioned document was marked Chamberlain Exhibit 7 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I snow you what has been marked as Chamberlain Exhibit 7 and ask you if that is a contract that you entered into with San Francisco in 1964?

A It seems to be consistent with the other considerations. Seems to be.

Q Do you recognize your signature?

A Yes, I think that is mine.

Q Looking at the contract, do you recall how much it was that you earned for the 1964/65 season with San Francisco?

A I don't have the foggiest.

Q Do you have any independent recollection of how much it was that you earned during the 1964/65 season with San Francisco?

A I am sorry. I don't. I would like to know myself what it was.

Q Do you know whether the contract that you signed in August 1964 with San Francisco was for more than one year or whether this was a one-year contract?

Let the record indicate that the witness is looking at Chamberlain Exhibit 7.

A Well, I can't really tell.

Q Do you have any recollection?

A No. It could have been for more.

Q Do you recall signing any contracts with San Francisco for more than one year?

A I don't remember, but I think maybe I did.

Q At any time during the 1964/65 season did you ever ask anyone connected with San Francisco management that you be traded from San Francisco?

A Did I ever ask anyone?

Q Yes.

A Not that I recall.

Q Did you have any discussions during the 1964/65 season about the possibility of your being traded by San Francisco?

A No, and I may add the trade came as a

complete surprise to me.

Q Prior to that time you had had no discussions with anyone from San Francisco about that?

A Not that I know of.

Q Were you traded during the 1964/65 season to Philadelphia?

A At the All Star break. I think that is '65.

Q That would be January '65?

A Yes, I think so.

Q After you were traded to Philadelphia did you seek to renegotiate your contract or your compensation with Philadelphia?

A Not that I recall.

Q At any time during the 1964/65 season did you have any discussions with anyone from the Philadelphia team about the compensation provisions of your player contract?

A Not that I recall.

Q At the end of the 1964/65 season did you enter into contract negotiations with Philadelphia?

A I think I did.

Q Do you recall when it was that your negotiations with Philadelphia began?

A No, I don't.

Q Do you recall that it was after the end

of the playing season?

A I don't recall.

Q What did you want in the way of compensation in connection with your 1965 contract with Philadelphia?

A Money.

Q Do you have any recollection of approximately how much?

A No, I don't.

Q Did you indicate to Philadelphia what you had been earning with San Francisco?

A I don't think it was necessary.

Q Did you at any time indicate that you wanted more money than what you had been earning with San Francisco?

A I may have.

Q And then did you indicate what it was that you had earned or had been earning with San Francisco?

A I don't think that was necessary. I think they already knew.

Q Do you know who it was who first made a proposal as to amount of money in connection with your 1965 contract?

A I really couldn't say.

Q Do you have any recollection of the amount of money that was being discussed with Philadelphia that year?

A Not exactly, no.

Q Do you know approximately how much it was?

A In the six figures.

Q Was that the first year that you had been discussing a contract in the six figures?

A I don't recall.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 8 a copy of a Uniform Player Contract, dated the 17th day of August, 1965, between Philadelphia 76ers and Wilton N. Chamberlain.

(Whereupon, the above-mentioned document was marked Chamberlain Exhibit 8 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I show you what has been marked as Chamberlain Exhibit 8 and ask you whether this is a copy of a contract that you entered into with Philadelphia in 1965?

A Could be. It seems to be.

Q The amount of money written in in Paragraph 2 appears to be $68,000. Do you recall that was the amount of money that you agreed to play for Philadelphia for in 1965/66?

A I don't recall. I don't recall.

Q Do you have any recollection of receiving compensation in excess of $68,000 for that season?

A I don't recall.

Q Did you sign any documents other than the Uniform Player Contract in 1965?

A I don't recall.

Q Do you recall signing any documents other than your Uniform Player Contracts in connection with any of your NBA contracts prior to 1965?

MR. LEMBERGER: Objection to form. What do you mean by documents?

MR. WASSERMAN: Any agreements.

MR. LEMBERGER: With the Philadelphia team?

MR. WASSERMAN: No, no. With any NBA teams prior to 1965.

MR. LEMBERGER: You are just talking about contractual arrangements with NBA teams as opposed to any document in the world?

MR. WASSERMAN: That is what I meant. That is what I hoped I had said.

THE WITNESS: I don't remember.

BY MR. WASSERMAN:

Q At the end of the 1965/66 season did you enter into negotiations with Philadelphia for a new player contract?

A I might have.

Q Do you recall entering into negotiations with Philadelphia for a contract to play with

Philadelphia for the 1966/1967 seasc ?

A Yes, I definitely -- you know, I had to have a contract.

Q What was it that you wanted in the way of compensation in connection with your 1966/67 contract?

A Money.

Q Do you recall approximately how much it was that you had proposed to Philadelphia?

A Probably just more than my last contract.

Q Do you have any recollection as to how much that was?

A No, I don't.

Q Do you have any recollection of how much it was that you signed to play for Philadelphia for the 1966/67 season?

A No.

Q Do you remember that it was in the six figures?

A No, I don't remember.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 9 a copy of a Uniform Player Contract, dated the 22nd day of September, 1966, between Philadelphia 76ers and Wilton N. Chamberlain.

(Whereupon, the above-mentioned document was marked Chamberlain Exhibit 9 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I show you what has been marked as Chamberlain Exhibit 9 and ask you whether this is a copy of a contract you signed with Philadelphia in 1966?

A Seems to be.

Q The amount of money indicated in Paragraph 2 is $93,000. Is that the amount of money that you signed to play with Philadelphia in the 1966/67 season?

A That is what it seems to say on that contract.

Q Do you have any recollection of receiving more money than $93,000 for that season?

A I don't have any recollection, no.

Q In connection with your contract negotiations with Philadelphia, the 76ers, that is, did you have any discussions about any nonmonetary provisions of a player contract?

MR. LEMBERGER: Are we speaking about 1966 now?

MR. WASSERMAN: This is any of his years with the Philadelphia 76ers in which he conducted contract negotiations.

THE WITNESS: Nonmonetary?

BY MR. WASSERMAN:

Q Yes.

A Could you give me an example of what a nonmonetary thing is?

Q Well, as an example, no-cut would be nonmonetary.

A Not that I recall. I don't recall.

Q Do you recall discussing any loan provisions with the Philadelphia 76ers?

MR. LEMBERGER: As part of the contract?

MR. WASSERMAN: As part of the contract.

THE WITNESS: I don't recall. It is possible. I don't recall.

BY MR. WASSERMAN:

Q Do you recall discussing any stock options with the Philadelphia 76ers?

A That is possible.

Q Do you recall discussing any other forms of investments that would form part of your player contract with Philadelphia?

A Not to my knowledge right now.

Q At the end of the 1966/67 season did you enter into contract negotiations with Philadelphia for the following season?

A I don't recall. I think I did, though, yes, unless it was already part of a contract before.

MR. LEMBERGER: What you are saying is you don't recall?

THE WITNESS: Yes. Nice deduction. I just get tired of saying I don't recall. It looks like I don't recall anything, which I don't.

BY MR. WASSERMAN:

Q What was it that you wanted in connection with a player contract for 1967/68 in the way of monetary provisions of the contract?

A Money --probably more than in the previous contract.

Q Was there anything other than monetary compensation that you wanted in connection with that contract?

A I can't recall anything more.

Q Do you recall approximately how much money you wanted?

A No.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 10 a copy of a Uniform Player Contract, dated the 10th day of October, 1967, between the Philadelphia 76ers and Wilton N. Chamberlain.

(Whereupon, the above-mentioned document was marked Chamberlain Exhibit 10 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I show you what has been marked as Chamberlain Exhibit 10 and ask you whether this

is a copy of a contract you entered into with Philadelphia in 1967?

A It is a big jump in salary, isn't it?

It seems to be.

Q The sum of money appearing in Paragraph 2 is $150,000. Was that the amount of money that you received as compensation for playing for Philadelphia during the 1967/68 season?

A Yes, I think so.

Q Do you have any recollection of discussing a so-called reserve or option clause in connection with your 1967 contract with Philadelphia?

A I don't really recall, no.

MR. LEMBERGER: Mr. Wasserman, I understand the purpose of asking a general question as you did a few minutes ago when you asked whether he ever discussed that subject during contract negotiations with any of the teams that he played for, and then you persist on asking the same question over again when he deals with individual contracts.

MR. WASSERMAN: I think it will become very apparent within the next few minutes why I asked him in connection with this contract.

MR. LEMBERGER: I hope so.

BY MR. WASSERMAN:

Q I am going to show you once again the

1966 contract which is Chamberlain Exhibit 9 and ask you whether you recall discussing the so-called reserve or option clause in connection with that contract?

A Is this the same one that you just asked me about?

Q No, the time before.

A Do I ever recall asking -- no. I don't know. I don't recall. It may have happened, but I don't recall.

Q Do you recall at any time during the 1966 through 1968 period having any discussions with any representative of the ABA or any representative of any team in the ABA?

A ABA, 1966?

Q Through '68.

MR. LEMBERGER: Through '68.

THE WITNESS: Through '68?

MR. LEMBERGER: Any time during that period.

THE WITNESS: What type discussions are you talking about?

BY MR. WASSERMAN:

Q Any kind of discussions with the possible eventuality of you entering into a contract to play in the ABA.

A For some future date?

Q At any date, either present or future.

A That may be so. It might be possible.

Q With whom did you have such discussions?

A I really don't recall with whom other than maybe -- no. I don't even recall.

MR. LEMBERGER: Don't speculate. Just answer to the best of your recollection.

BY MR. WASSERMAN:

Q Do you recall anyone with whom you had discussions prior to discussions with San Diego in 1973 about your entering into a contract to play in the ABA?

MR. LEMBERGER: You are asking a different question now?

MR. WASSERMAN: Well, I am asking for anything general to see what recollection he has.

MR. LEMBERGER: Before you limited it to '68.

MR. WASSERMAN: Well, I am trying to narrow it down.

MR. LEMBERGER: It seems to have expanded.

MR. WASSERMAN: I have expanded as a first step to narrowing it down.

THE WITNESS: No. I don't recall before, you know, who it was before.

BY MR. WASSERMAN:

Q Do you recall any persons that you had discussions with prior to discussions with San Diego about entering into a contract to play in the ABA?

A Not really.

Q You recall no persons, the names of any persons?

A I don't recall any particular names other than maybe --

MR. LEMBERGER: Don't speculate. When you say maybe you are indicating to me that you might be speculating.

BY MR. WASSERMAN:

Q But, there is some recollection. To the extent that there is some recollection, you can indicate that it is the best recollection you have.

A I talked to a lot of people about a lot of different things.

I am sure I could remember.

Abe Saperstein. He was with the other -- Abe Saperstein, but I don't think he was part -- I am trying to figure whether he was part of the ABA, but I recall then that he wasn't, so I really don't remember who it would be.

Q Do you recall the names of any teams in the ABA who contacted you?

A No.

Q Do you recall ever being contacted by the Los Angeles Stars of the ABA?

A No.

Q Did you at any time have any conversations with a Mr. James John Kirst?

A James John Kirst? It is possible.

MR. LEMBERGER: Do you recall?

THE WITNESS: Not really.

BY MR. WASSERMAN:

Q Did Mr. Goldberg have any conversations with Mr. Kirst?

A Possible, but I don't recall.

Q You have no recollection of any conversations or discussions with Mr. Kirst, either by yourself or Mr. Goldberg?

MR. LEMBERGER: That is what he just said.

THE WITNESS: James John Kirst. The name is familiar, but rather than, you know -- I don't recall.

BY MR. WASSERMAN:

Q Do you recall any meetings with Mr. Kirst?

A No. I don't recall.

MR. LEMBERGER: Mr. Wasserman, if you have something particular in mind, then maybe you better ask Mr. Chamberlain about it to refresh his recollection rather than asking him generalized questions.

THE WITNESS: I could have had a meeting with Mr. Kirst about 10,000 things, you know, pertaining to 10,000 different things; I mean, all forms of business.

MR. WASSERMAN: Mr. Lemberger, I don't propose

to have you direct my examination and I resent your interjection.

MR. LEMBERGER: Mr. Wasserman, my interjection was made only for the purpose of expediting the deposition. Obviously, you have something in mind and obviously it would help the situation if you would state what it is that you have in mind.

BY MR. WASSERMAN:

Q Do you recall at any time during the summer of 1968 having a meeting in the Biltmore Hotel in Los Angeles at which some or all of the following were present: Mr. Mikan, Mr. Ringsby, Mr. Goldberg, yourself, Mr. Kirst, Mr. Irving Grant?

A That may be possible.

Q Do you recall discussing a player contract or the possibility of entering into a player contract to play for the Los Angeles Stars in the ABA?

A I don't recall what was discussed.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 11 a copy of a newspaper article dated October 13, 1967.

MR. LEMBERGER: What newspaper?

MR. WASSERMAN: It doesn't indicate what the newspaper is.

MR. LEMBERGER: Mr. Wasserman, that is just what I had in mind when I made the comment before. We wasted

possibly five to ten minutes with your beating around the bush asking generalized questions about James John Kirst. If you were to come up with the article in the first place we wouldn't have had to go through all that. It just sounds like you are trying to trick the witness.

MR. WASSERMAN: I think, first of all, you ought to look at the article before you make your statements.

Second of all, I think you should know that in conducting examination it is very normal to try to exhaust the witness' recollection before showing him documents, and that is what I have been attempting to do.

MR. LEMBERGER: No. I think you exhausted the witness rather than exhausting his recollection.

(Whereupon, the above-mentioned document was marked Chamberlain Exhibit 11 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I will show you what has been marked Chamberlain Exhibit 11 and ask you to read through that article, if you would, please.

A (Witness reads document.)

Q Mr. Chamberlain, in Chamberlain Exhibit 11 there is a reference in the paragraph which begins, "The phrase, 'standard contract.'"

A Yes.

Q It says that the reserve clause was

dismissed by the 76ers last year in your case.

A Uh-huh.

Q Do you recall making that statement?

A I sure don't.

Q Do you recall, in fact, whether the reserve clause was dismissed?

A No, I don't.

Q Do you recall at any time making a statement or saying that the so-called reserve clause had been eliminated in any of your player contracts?

A Eliminated, no.

Q Modified?

A Modified reserve clause? No.

Q There is a reference in the second sentence in this same paragraph which begins, "The move allowed him," which is referring to Mr. Chamberlain, "to make a deal with teams in the American Basketball League."

A Move allowed him? What move?

Q This refers to the sentence before, I believe.

A I don't know myself. What move are you talking about?

MR. LEMBERGER: That is just what I was going to object to. You are drawing a conclusion from the wording of the paragraph. It may not be warranted.

THE WITNESS: The thing that is really surprising about this article, if I may add, whoever wrote this article -- who wrote it?

BY MR. WASSERMAN:

Q It is not signed. I don't know who wrote it.

A I don't know who wrote it, either.

Q Do you recall at any time stating to anyone that you believed yourself free to negotiate with any team in the ABA, and by any time I mean any time prior to 1970?

A I believe myself free to negotiate with anyone in the ABA?

Q Yes.

A I can't recall saying that to anyone.

Q At any time prior to 1970 did you understand yourself free to negotiate with any team in the ABA?

A Did I understand myself to be free to negotiate with any team in the ABA? Free to negotiate -- free to negotiate for what?

Q For a contract as a player.

A For a contract as a player? For what years?

Q For any years.

A Now, you are asking me whether I considered

myself free to negotiate with the ABA as a player?

Q Yes.

MR. LEMBERGER: Prior to 1970.

THE WITNESS: Prior to 1970? Well, yes and no. Yes, free if they want to talk to me about making me a player in 1980, you know, and if I still wanted to play then or whatever, maybe I would consider myself free, or at the present day why I was already in a contract and the answer would be no.

BY MR. WASSERMAN:

Q Why did you pick the year 1980? Was there any particular reason?

A I am saying because most of my contracts were like for a year or whatever, you know, so if someone came to me and said I want to talk to you about a contract, I would have probably said to them I am already under contract and they would say I am not talking about for now, maybe four or five years whence when you are no longer under contract which then maybe I would have said yes and listen.

Is that all right?

MR. LEMBERGER: He asked you what you meant by 1980. That was your explanation.

BY MR. WASSERMAN:

Q Do you have any recollection of discussing a future contract with any team in the ABA?

A No, I don't, not right now -- not then.

As a player you are talking about, right?

Q Right.

In the same article -- this is Chamberlain Exhibit 11 -- the first paragraph in the top of the second column you say that "The reserve clause has been resolved. After the season I will be just like any other player."

Did you make that statement or any statement to that effect?

A I don't recall making that statement.

Q Do you recall whether in 1967 in connection with the contract you signed with Philadelphia that year you either eliminated or modified the reserve clause?

A I don't recall doing either.

Q Other than your negotiations and your contract with San Diego in 1973, was any proposal ever put in writing about your entering into a player contract with any team in the ABA?

A Not that I know of.

Q At any time during the 1967/68 season -- this is the season youwere with Philadelphia -- did you ever seek to be traded?

A Seek to be traded?

Q Yes.

A Personally?

Q Yes.

A Are you saying prior or during the --

Q During the season.

A No.

Q Prior to that season?

A No.

Q During the 1967/68 season did you have any discussions with anyone from Philadelphia about the possibility of your being traded by Philadelphia?

A No.

Q After the end of the 1967/68 season did you ask Philadelphia to trade you?

A Did I ask Philadelphia to trade me after the 1967/68 season? No, no.

Q Did you have any conversations with anyone from Philadelphia about the possibility of your being traded?

A Possibility of me being traded? Not until -- not until after I was contacted about being traded.

Q By whom were you contacted about being traded?

A I believe from Jack Kent Cooke.

Q Approximately when was it that Mr. Cooke contacted you?

A I don't know exactly.

Q Was it sometime after the end of the 67/68 season?

A Yes, it would have to be afterwards.

Q Was it sometime before you were actually traded?

A Before I was actually traded?

Q Yes.

A What do you mean before?

Q Was it before the deal was made?

MR. LEMBERGER: Only if you know, Mr. Chamberlain.

THE WITNESS: I don't really know.

BY MR. WASSERMAN:

Q Why don't you relate the series of events that happened leading up to the time that you were traded from Philadelphia to Los Angeles.

A There are too many events. Ask what you want to know and I will give the answer.

Q If you could do it in narrative form it would be simpler.

A There is no narrative form other than the fact that, you know, I was contacted by Mr. Cooke whether I wanted to play for the Lakers and that is it.

Q What did you say to Mr. Cooke?

A If the price was right.

Q Were you contacted by any other teams in the NBA?

A Contacted?

Q Yes.

A Not really contacted, no. I wouldn't say contacted, no.

Q Were there discussions with other teams in the NBA at that time?

A There was a discussion, yes.

Q With which other teams?

A Seattle.

Q Any other teams?

A Not that I remember.

Q Who from Seattle had discussions with you?

A Who is the owner, the owner's name? There was discussion of interest. I can't even think of his name.

Q What was discussed with the owner of Seattle?

A Nothing but discussion of interest. That is all.

Q Was this --

A That there was an interest.

Q You indicated that you had an interest in playing with Seattle or --

A He had an interest in having me play for them.

Q Did you indicate whether you were

interested in playing for Seattle?

A I was interested in his interest.

Q Were these conversations with the owner of Seattle prior to or after the discussions with Mr. Cooke?

A It may have been simultaneously. I am not really sure.

Q Prior to discussion with Mr. Cooke had you had any discussion with Philadelphia?

MR. LEMBERGER: About what?

MR. WASSERMAN: About playing with another team in the NBA.

THE WITNESS: No. Only about the contract -- money.

BY MR. WASSERMAN:

Q What was discussed in your discussions with Philadelphia about the contract?

A Not enough.

Q Did you indicate to Philadelphia that if they didn't offer a certain amount of money that you would not sign with them and you would prefer to play with some other team in the NBA?

A No, I did not indicate that to them.

Q Did you indicate anything to that effect?

A No, not to that effect, either.

Q Was there any discussion of what Philadelphia could or should do in the event that they

were not willing to offer you as much money as you wanted?

A No.

Q Did anyone from Philadelphia ask you what teams in the NBA you would prefer to play with?

A No.

Q Were there any teams that at that time you would have preferred to play with other than Philadelphia?

A Preferred to play with other than Philadelphia? Maybe New York Knicks.

Q Why the New York Knicks?

A Because I had a residency in New York.

Q Any other reason?

MR. LEMBERGER: You are asking for Mr. Chamberlain's recollection as of that time? Is that correct, Mr. Wasserman?

MR. WASSERMAN: Yes.

THE WITNESS: Other than I like New York, I can't think of any other reason.

BY MR. WASSERMAN:

Q Is financial opportunity in New York one factor?

A I just like New York.

Q With whom from Philadelphia had you had discussions prior to your discussions with Mr. Cooke in

1968?

A Whom from Philadelphia?

Q Yes.

A Discussions about what?

Q About contracts.

A With general manager Ramsey and Kosloff, the owner.

Q Had you had a meeting or series of meetings with Mr. Ramsey and Mr. Kosloff?

A I believe so.

Q Was Mr. Goldberg participating in these discussions?

A No.

Q Were you having your contract discussions with Philadelphia alone?

A Yes.

Q Who was it who first proposed an amount of money in connection with entering into a contract to play with Philadelphia for the following season?

A I am not really sure. I would imagine them, though.

Q Do you recall how much they originally proposed?

A No.

Q Was it something more than the amount of money that you had been paid in the previous season?

A I am not really sure.

Q Did you at some point during these discussions propose an amount of money or other financial consideration to Philadelphia?

A I don't recall.

Q You testified, I believe, that Philadelphia was not willing to pay you as much as you wanted that year; is that correct?

A I would think so.

Q Did you indicate to them how much it was that you wanted or approximately how much you wanted?

MR. LEMBERGER: You just asked him that, Mr. Wasserman.

THE WITNESS: No, but let me say something else that may help you out a little bit.

They also wanted me to perform another service.

BY MR. WASSERMAN:

Q What was the other service?

A Coaching.

Q Was this to be your services as a player and a coach?

A Yes.

Q Did they propose that you sign one contract as a player-coach?

A I don't really recall, but, you know -- I

don't know whether we ever got that far.

Q Did you want to coach the Philadelphia team?

A I am not quite sure.

Q You are not quite certain that you understand my question or you are not quite certain whether you wanted to?

A I am not quite sure whether I knew I wanted to coach or not.

Q Did you have discussions with representatives of Philadelphia about that?

A They had discussions with me about that, yes.

Q What was discussed?

A That they were interested in me performing both jobs.

Q What did you indicate to them?

A I wasn't sure -- and compensation.

Q How was it that you came to the understanding that Philadelphia was not willing to pay what it was that you wanted?

A I guess by --

MR. LEMBERGER: Don't guess. Do you remember?

THE WITNESS: No, not exactly.

MR. LEMBERGER: Testify to the best of your recollection.

THE WITNESS: No. I don't remember.

BY MR. WASSERMAN:

Q Did they indicate to you that they could not pay what it was that you were asking?

A I don't recall, no.

There is a difference between could not and would not, isn't there?

Q Did they indicate that they would not?

A I can't recall.

MR. WASSERMAN: Off the record.

(Off-the-record discussion.)

BY MR. WASSERMAN:

Q Did you have any discussions with Philadelphia about either the possibility or the fact that Mr. Cooke was interested in your playing with the Lakers?

A No.

Q Did you tell Philadelphia or any representative of Philadelphia that Mr. Cooke had contacted you?

A No.

Q Did Mr. Cooke indicate to you whether or not he had spoken to Philadelphia prior to his contacting you?

A I think he did. I am not sure. I think he did.

Q What did he say?

A Just that. . .

Q At the time that Mr. Cooke contacted you were you interested in playing with the Lakers if they were willing to offer you the amount of money that you wanted?

MR. LEMBERGER: Could you read back the question, please.

(Record read.)

THE WITNESS: The answer is I was interested in listening.

BY MR. WASSERMAN:

Q Did Mr. Cooke make a proposal to you?

A When?

Q At the time he first contacted you or anytime subsequent leading up to the time that you finally signed a contract with Los Angeles.

A Yes.

Q Did he make a proposal in the first conversation that you had with him?

A I don't recall.

Q Did Mr. Cooke or any other representative of the Lakers make the first proposal or did you first propose an amount of money?

A I would imagine it was -- I don't really recall.

Q Do you recall how much it was that the Lakers proposed to you?

A Are you assuming the Lakers proposed now?

Q I think you already said that Mr. Cooke at some point proposed an amount of money to you.

A I don't recall exactly.

Q Do you recall approximately how much?

A In the six figures.

Q Do you recall what the first digit of the six figures was?

A I think between --I really don't know. It could have been between three and six.

Q Did you at any time indicate to Mr. Cooke how much it was that you wanted?

MR. LEMBERGER: When you say at any time, are you referring to any time up until he actually signed the contract with Los Angeles?

MR. WASSERMAN: Yes, in 1968.

THE WITNESS: I think I indicated what I didn't want.

BY MR. WASSERMAN:

Q What didn't you want?

A Up until whatever his last offer was, I guess.

Q Was there any discussion with Mr. Cooke or anyone else from the Lakers about your coaching for

Los Angeles?

A No.

Q Was the fact that Philadelphia also wanted you to coach any problem in the negotiations that you had with Philadelphia?

MR. LEMBERGER: Objection to form.

Go ahead.

THE WITNESS: I don't think so.

BY MR. WASSERMAN:

Q I am going to show you the 1973/74 NBA Guide and on page 120 is Mr. Wilt Chamberlain.

A What about it? Born. . .

Q And particularly there is a reference that you were traded by Philadelphia to Los Angeles and the date is July 9, 1968.

A It seems like a good date.

Q Do you recall that that was the date that you were traded?

A No, I don't recall.

Q Do you have any recollection of when it was that you were actually traded?

A No, I really don't.

Q Do you know whether the discussions that you had with Mr. Cooke were prior to July 9, 1968?

A No, I don't recall. I don't even know whether that date is correct or not.

Can I ask you a question?

Q Do you want to go off the record?

A It can be on the record.

Why did you show me that date?

Q To see if that refreshes your recollection as to the timing of events.

During your discussions with Mr. Cooke in 1968 what kind of financial terms did he propose as part of your player contract?

A I don't really recall, you know.

Q Do you recall whether there was anything other than money?

A Yes, I think there were.

Q What other things were discussed that you recall?

A Stock options.

Q Other than stock options --

A Are you talking about what was proposed?

Q Yes.

A That is all I can remember being proposed.

Q What do you recall actually agreeing to?

A Stock options, real estate investment, and money, I think.

Q Did you or an resentative of yours propose the real estate investment feature?

MR. LEMBERGER: As opposed to Mr. Cooke proposing?

MR. WASSERMAN: Yes.

THE WITNESS: I think Mr. Cooke's representative proposed real estate.

BY MR. WASSERMAN:

Q Who was Mr. Cooke's representative?

A A guy named Clyde Tritt or Ritt, or something like that.

MR. WASSERMAN: Off the record.

(Off-the-record discussion.)

THE WITNESS: I think it was Clyde Tritt. I don't think he is any longer with Mr. Cooke, though.

BY MR. WASSERMAN:

Q Did Mr. Goldberg participate in the negotiations with the Lakers?

A Some of them.

Q Did anyone other than Mr. Goldberg assist you in the negotiations?

A No.

Q Were there discussions about the length of a player contract with the Lakers that year?

A Yes.

Q Did the Lakers propose that you sign a multiyear contract?

A I think they did.

Q Were you agreeable to signing a multiyear contract?

MR. LEMBERGER: Objection to form.

THE WITNESS: I don't know whether I was agreeable. I think I did sign one.

BY MR. WASSERMAN:

Q Did you at any time ask for a one-year contract?

A I don't recall. I may have.

Q Did you or your representative at any time propose a length of contract other than three years?

A May have.

Q Was there any discussion about any no-cut contract?

A I am not sure.

Q Was there any discussion that year with the Lakers about modifying the trading provisions of the contract or no-trade contract?

A I am not sure that year.

Q Was there any discussion about modifying or eliminating the so-called reserve or option clause?

A I don't recall.

Q Do you recall discussing any nonmonetary or nonfinancial terms of the player contract with the Lakers that year?

A I don't recall, no.

Q At any time after your initial conversation with Mr. Cooke in 1968 did you have any further

discussions with Philadelphia?

A Not that I recall.

Q Did you ever indicate to Philadelphia what it was that Mr. Cooke had offered to pay you?

A I don't think so.

Q Did you or your representative seek to contact any teams in the NBA about the possibility of your playing with that team for the 1968/69 season?

A No, not that I know of.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 12 a copy of a Uniform Player Contract, dated the 26th day of September, 1968, between California Sports, Incorporated (Los Angeles Lakers) and Wilton N. Chamberlain.

(Whereupon, the above-mentioned document was marked Chamberlain Exhibit 12 for identification.)

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 13 a copy of a seven-page document entitled Letter Agreement on the first page, and I will ask the reporter to mark as Chamberlain Exhibit 14 a copy of a five-page document entitled Option Agreement.

I will ask the reporter to mark as Chamberlain Exhibit 15 a six-page document entitled Sale of Stock and Pledge Agreement.

(Whereupon, the above-mentioned

documents were marked Chamberlain Exhibits 13, 14, and 15 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I show you what has been marked as Chamberlain Exhibit 12 and ask you whether this is a copy of the Uniform Player Contract you signed with the Lakers in 1968.

A Yes, it looks like it may be it.

Q Mr. Chamberlain, I show you what has been marked as Chamberlain Exhibit 13 and ask you whether this is a copy of an agreement that you signed with California Sports, Incorporated in 1968.

A Yes, I think so.

Q I show you what has been marked as Chamberlain Exhibit 14 and ask you whether this is a copy of an agreement that you signed with California Sports, Incorporated in 1968.

A It appears to be.

Q Mr. Chamberlain, I show you what has been marked as Chamberlain Exhibit 15 and ask you whether this is a copy of an agreement that you signed with Jack Kent Cooke in 1968.

A Yes. This seems to be. That seems to be, yes.

Q Chamberlain Exhibits 13 and 14 are dated June 10, 1968, and the Uniform Player Contract is dated

September 26, 1968.

Do you recall signing agreements prior to the time that you signed the Uniform Player Contract with Los Angeles?

A I don't recall it, but it must have been, I guess.

MR. LEMBERGER: That is not the question. The question is do you recall. The dates can be wrong.

THE WITNESS: I don't recall the exact dates.

MR. LEMBERGER: There are many documents in this world that are backdated.

THE WITNESS: Yes, of course. My marriage license.

BY MR. WASSERMAN:

Q Do you recall in looking at Chamberlain Exhibits 13 and 14 that you commenced your discussions with Mr. Cooke at some time either during or prior to June of 1968?

A That is possible.

MR. LEMBERGER: Off the record.

(Off-the-record discussion.)

BY MR. WASSERMAN:

Q Are Chamberlain Exhibits 13, 14 and 15 part of the contractual agreement or agreements that you signed whereby you agreed to play for three years for the Los Angeles Lakers?

MR. LEMBERGER: Objection to form. You are

asking Mr. Chamberlain for legal conclusion.

THE WITNESS: I was just going to ask you whether that is -- I don't know whether that is legal or not.

BY MR. WASSERMAN:

Q Was that your understanding?

A I don't recall any such understanding.

Q In Chamberlain Exhibit 12 in Paragraph 2 there is a reference to "and other considerations" in the typed-in language.

A Yes.

Q Are Chamberlain Exhibits 13, 14 and 15 such other considerations as referred to in that paragraph?

MR. LEMBERGER: Objection to form.

THE WITNESS: Could be.

MR. LEMBERGER: When you said such other, are you talking about the actual other considerations?

MR. WASSERMAN: Yes.

What was the witness' answer?

THE WITNESS: They could be.

MR. LEMBERGER: Do you know?

THE WITNESS: I don't know for sure.

BY MR. WASSERMAN:

Q Do you have any recollection of whether they were?

A No, none other than what is there.

Q Did you sign any other agreements with Mr. Cooke which related to your agreeing to play basketball for the Lakers --

MR. LEMBERGER: Objection to form.

BY MR. WASSERMAN:

Q -- prior to the beginning of the 1968/69 playing season?

MR. LEMBERGER: Objection to form. I don't know whether that has been established.

THE WITNESS: I don't recall.

BY MR. WASSERMAN:

Q At any time after signing Chamberlain Exhibit 12, did you seek to renegotiate your contract with the Lakers?

A I don't recall.

Q Were you paid the consideration called for in your 1968 contract with the Lakers?

A Was I paid?

Q Yes.

A I think I was.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 16 a copy of a one-page document dated 3-15-70, signed by Wilton N. Chamberlain, which has on the top line "To: National Basketball Players Association."

(Whereupon, the above-mentioned

document was marked Chamberlain Exhibit 16 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I show you what has been marked as Chamberlain Exhibit 16 and ask you whether you signed this document.

A It seems to be.

Q I show you just once again Chamberlain Exhibit 12 and ask you in looking through that document whether you discussed with the Lakers any of the nonmonetary provisions of that contract?

A I don't recall.

Q At the end of the 1970/71 season did you enter into negotiations with the Lakers about signing a new contract with them?

A I think I did.

Q Prior to that time and subsequent to the time that you signed Chamberlain Exhibit 12 had you had any discussions with the Lakers about the subject of your player contract?

MR. LEMBERGER: Objection to form. Do you mean his existing contract or a new contract?

MR. WASSERMAN: Either.

THE WITNESS: I don't recall.

BY MR. WASSERMAN:

Q With whom from the Lakers did you have

discussions after the 1970/71 season about entering into a new contract with the Lakers?

A Jack Kent Cooke, I would imagine.

Q Anyone other than Mr. Cooke?

A No.

Q Did Mr. Goldberg assist you in those contract negotiations?

A Some of them.

Q Did you first approach the Lakers or did the Lakers first approach you about entering into a new contract with the Lakers?

MR. LEMBERGER: Objection to form. What do you mean approach? You mean who made the first contact?

MR. WASSERMAN: Yes.

THE WITNESS: I don't recall.

BY MR. WASSERMAN:

Q At any time during your discussions with the Lakers did you propose an amount of money or other consideration for which you would play baseketball for the Lakers?

A I don't think so.

Q What was the Lakers' initial proposal that year?

A I don't recall.

Q Do you recall approximately how much it was?

A Not at all. Knowing the Lakers, it may have been $2.

Q Was it something less than the amount that you finally signed for?

A Something less than the amount? Not recalling the amount, I couldn't tell you if it was something less.

Q Were there discussions about what the length of the player contract would be with the Lakers that year?

A Could be.

Q Did you want a one-year contract that year?

A Might have.

MR. LEMBERGER: Are you saying you don't recall?

THE WITNESS: I don't recall.

BY MR. WASSERMAN:

Q Who was it that proposed that you sign a contract for a period of time longer than one year, if you recall?

A I don't recall.

Q Were there discussions of what form other than money the compensation or consideration that you would be paid would take?

A I don't really recall.

Q Was there any discussion about stock

options or stock?

A There might have been, but I don't recall.

Q Was there any discussion of real estate investment?

A I don't recall.

Q Was there any discussion of a loan?

A I don't recall.

Q Was there any discussion of nonmonetary, nonfinancial considerations which relate to your player contract?

A There may have been. I don't recall.

Like no-cut, no-trade?

Q Yes.

The answer is still you don't recall?

A Well, I don't recall at this particular time, no.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 17 a copy of a Uniform Player Contract, dated the 9th day of September, 1971, between California Sports, Incorporated (Los Angeles Lakers) and Wilton N. Chamberlain.

(Whereupon, the above-mentioned document was marked Chamberlain Exhibit 17 for identification.)

MR. WASSERMAN: I will ask the reporter to mark

as Chamberlain Exhibit 18 a copy of a five-page document entitled Agreement.

(Whereupon, the above-mentioned document was marked Chamberlain Exhibit 18 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I show you what has been marked as Chamberlain Exhibit 17 and ask you whether this is a copy of the Uniform Player Contract that you signed with the Lakers in 1971.

A It seems to be.

Q Looking at Chamberlain Exhibit 17, does that refresh your recollection as to whether you had any discussions about modifying or eliminating the so-called reserve or option clause that year?

A It doesn't really refresh my memory, no. I may have had it.

Q Does that refresh your recollection as to whether you had any discussions about a no-trade or other modification of the trading provision?

A No.

Q Mr. Chamberlain, I show you what has been marked as Chamberlain Exhibit 18 and ask you whether this is a copy of an agreement that you signed with California Sports, Incorporated?

A (Witness reads document.)

Q Do you recognize your signature on the last page?

A I think that is it.

Q Do you know when it was that this document was signed?

A No.

Q Do you know whether it was approximately at the same time that you signed your Uniform Player Contract which is Exhibit 17?

A No.

Q In Paragraph No. 10 on page 5 of Chamberlain Exhibit 18, there is a clause.

A All right.

Q Do you understand that to be a modification of the trading provision of the Uniform Player Contract?

A Yes.

Q Does that refresh your recollection as to whether there were discussions that year about modifying the trading provision?

A No, it doesn't.

Q At any time during the 1971/72 season, the first season covered by your two-year 1971 contract, did you or anyone on your behalf seek to renegotiate your contract?

A Not that I know of.

Q During the summer or during the off-season

between the 1971/72 season and the 1972/73 season, did you or anyone on your behalf have any discussions with the Lakers about either entering into a new player contract or in some way modifying your existing player contract?

A I don't recall.

MR. LEMBERGER: I object to the form of the question. I am not sure I understand your question at all, Mr. Wasserman.

BY MR. WASSERMAN:

Q Were there any discussions about renegotiating the contract or entering into a new player contract during the months between the end of the 1971 season and 1972/73 season?

Does that clarify the question?

MR. LEMBERGER: Yes.

BY MR. WASSERMAN:

Q Is the answer still --

A It is the same.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 19 a copy of a one-page set of handwritten notes dated by hand 10-3-72.

(Whereupon, the above-mentioned document was marked Chamberlain Exhibit 19 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I show you this document and ask you whether that refreshes your recollection as to whether there were any discussions about your player contract at any time during the summer or during the off-season between 1971/72 and 1972/73 seasons?

A No, it doesn't.

Q At any time up to the end of the 1972/73 season did you or anyone on your behalf have any discussions with the Lakers about a new contract or changing your existing player contract?

A No, not that I recall.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 20 a copy of a one-page document entitled Addendum to Agreements, dated October 16, 1972.

(Whereupon, the above-mentioned document was marked Chamberlain Exhibit 20 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I show you what has been marked as Chamberlain Exhibit 20 and ask you whether you signed this addendum to the agreement.

A (Witness reads document.)

Q Does that refresh your recollection as to any discussions that you or your representative had with the Lakers with the subject of your player

contract?

A Subject of my player contract? No, it doesn't.

MR. LEMBERGER: It is an interesting distinction.

THE WITNESS: No, it does not.

BY MR. WASSERMAN:

Q Does it refresh your recollection as to any discussions that you had with the Lakers about renegotiating or entering into a new contract?

A No, it doesn't.

MR. LEMBERGER: Are you speaking of the Uniform Player Contract?

MR. WASSERMAN: Yes, I am.

Q Do you recall of any discussions leading up to or at the time of your signing Chamberlain Exhibit 20?

A No, I don't recall.

Q After the 1972/73 basketball season, did you at any time have any further discussions with anyone from the Lakers about entering into a new player contract with the Lakers?

A Not that I recall.

Q And this includes at any time to date?

A Right.

Q Did any representative on your behalf have any conversations with the Lakers about that subject?

A About a new contract?

Q Yes.

A A new one, no, not that I know of.

Q Did you or any representative on your behalf at any time seek to discuss with the Lakers the subject of entering into a new contract to play basketball for them?

A A new contract? No, not that I know of.

Q Following the end of the 1972/73 season did there come a time when you had discussions with anyone from the San Diego team in the ABA?

A Following?

Q Yes.

MR. LEMBERGER: Following which season?

MR. WASSERMAN: 72/73 season.

THE WITNESS: That is my last Laker season?

BY MR. WASSERMAN:

Q Yes.

A Yes.

Q When did those discussions begin?

A I don't recall.

Q With whom did you or your representative have discussions?

A Doctor Leonard Bloom.

Q At any time prior to the end of the 1972/73 season, had you or any representative on your behalf had

any discussions with Doctor Bloom or any other representative of the San Diego ABA franchise?

A No, I don't think so.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 21 a copy of a newspaper article dated September 27, 1972.

(Whereupon, the above-mentioned document was marked Chamberlain Exhibit 21 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I will show you what has been marked as Chamberlain Exhibit 21 and ask you if that article refreshes your recollection of whether you had any contacts with San Diego or any representative of San Diego at any time prior to the end of the 1972/73 basketball season.

MR. LEMBERGER: I would note for the record that the date which you referred to, Mr. Wasserman, is entered in hand. It doesn't appear anywhere in the body of the article.

MR. WASSERMAN: That was as the document was produced to us.

MR. LEMBERGER: I am not doubting your word with regard to that. All I am saying is that the date is handwritten and doesn't appear within the article itself.

THE WITNESS: (Witness reads document.)

MR. LEMBERGER: There is a question pending.

THE WITNESS: Read that question back to me.

(Record read.)

THE WITNESS: There may be, but I don't recall.

BY MR. WASSERMAN:

Q Mr. Chamberlain, I show you page 9 of the December 11, 1972 ABA minutes.

MR. LEMBERGER: Minutes of what?

MR. WASSERMAN: Minutes of the trustees' meeting.

THE WITNESS: Which paragraph do you want me to read?

BY MR. WASSERMAN:

Q The paragraph begins, "Leonard Bloom stated," at the top of the page.

A (Witness reads document.)

Q Does that refresh your recollection?

A Not at all. It refreshes nothing.

Q Approximately when was the first contact that you recall that you had, you or your representative had, with Doctor Bloom?

A First contact?

Q Yes.

A I can't recall when the first contact was.

Q Then, can you place it just in terms of

years?

A Years? No, I can't.

Q Did Doctor Bloom make a proposal to you in connection with the possibility of your coming to play and/or coach for San Diego?

MR. LEMBERGER: At any time?

MR. WASSERMAN: At any time.

THE WITNESS: He may have.

BY MR. WASSERMAN:

Q Do you recall that he did?

A No.

Q Did you ever hear that he had made a proposal?

A No.

Q Did you have discussions, you or your representative, with Doctor Bloom during the months after the end of the 1972/73 season about your playing and/or coaching for the San Diego Conquistadors?

A I think we did, uh-huh.

Q Did you or your representative indicate to Doctor Bloom what it was that you wanted in terms of compensation or consideration in order for you to play and/or coach for San Diego?

A Did we?

Q Yes.

A Initiate, you say?

Q No. Did you indicate?

A Did we indicate? No, we didn't indicate, no.

Q Did Doctor Bloom make a financial proposal to you or your representative?

A Yes.

Q Do you recall approximately how much that was?

A No.

Q Were there any nonmonetary parts of the proposal?

A Like a no-cut, no-trade?

Q That, and also stock option or any form of stock interest.

MR. LEMBERGER: It seems to me that a stock option or stock interest is some kind of monetary compensation.

THE WITNESS: That is what I was going to say.

MR. LEMBERGER: Using the term as defined by Mr. Wasserman, answer the question.

THE WITNESS: There may have been.

BY MR. WASSERMAN:

Q Let's break it down. Was there any discussion of stock interest with Doctor Bloom?

A Yes.

Q Was that a stock interest in the San Diego Conquistadors?

A In various things.

Q Did that include the San Diego Conquistadors?

A It might have.

Q Was there any discussion of a no-cut contract?

A Not that I know of, no.

Q Was there any discussion of a no-trade or other provision providing for no trade without player approval?

A I don't recall.

Q Was there any discussion about no reserve or option clause?

A I don't recall.

Q Was there any discussion of a loan?

A A loan? Loan for what?

Q A loan by Doctor Bloom or San Diego to you.

A For what?

Q Of money.

A For what? A loan for what? For services rendered?

Q For services rendered.

A Not that I know of.

Q A loan in any form?

A I don't recall.

Q Was there any discussion about a personal guarantee of the contract by Doctor Bloom?

A I don't recall whether it was personal.

Q Do you recall that there was some discussion about a guarantee?

A Yes.

Q Do you recall whether there was discussion about a league guarantee?

A I don't recall whether it was personal or league or team, just guarantee.

Q Was it your understanding that the contract that you signed was a guaranteed contract?

A Yes, I think it was.

Q Did you understand who it was that guaranteed the contract?

A Well, not exactly. There is some legal ramifications.

Q What is your best understanding as best you understand it.

A That contracts were submitted to boards of leagues that put a sanction to whether they were valid or invalid, accepted by the league, meaning they may be the responsibility of the league in part to uphold the contract by a particular owner. That is my understanding, so if an owner agrees it is the responsibility of the league who sanctions the agreement to also stand by the agreement or whatever.

Q Was there any discussion about the other

teams or the owners of other teams in the ABA assisting Doctor Bloom in paying the obligations under the contract?

A Not that I know anything about.

Q Was there any discussion about indemnification or San Diego paying for any legal expenses that you might be incurred in connection with your signing for San Diego?

A There may have been.

Q What was discussed in that regard?

A I am not fully sure.

Q Mr. Chamberlain, I will show you the June 27, 1973 minutes of the trustees' meeting of the ABA and particularly direct your attention to page 3, the paragraph that begins, "After very extended discussion," and ask you just to read that paragraph, if you would.

A (Witness reads document.)

Q Those minutes are dated June 27, 1973?

A June 27, 1973?

Q Yes.

A Uh-huh.

Q Were you having discussions with Doctor Bloom in June of 1973?

A I don't recall. I may have.

Q Do those minutes help refresh your

recollection?

A No, they don't.

Q Did you or your representative indicate to Doctor Bloom that you were free of your contractual obligations to the Lakers?

A Indicate to them?

Q Yes.

A No. There was no need to.

Q Why was there no need to

A The contracts were obvious.

Q Did you believe that you were free of your contractual obligations to the Lakers in the summer of 1973?

A No.

Q Have you heard the term "free agent" before?

A Free agent?

Q As it is used in the sense of a basketball player in relation to his contract.

A No, I haven't.

Q Never heard the term "free agent"?

A No. I don't read the sports pages too much.

Q During the summer of 1973 did the Lakers send you a contract for your signature?

A Yes, about two days before expiration time of the legal sending of a contract, I believe, to a player.

Q What was your understanding as to what your contract status vis-a-vis the Lakers would have been had they not sent that contract prior to that deadline?

A That they had voided their, you know, their particular -- if they didn't send the contract, then they were in error of their contractual obligations as player/team, you know, team/player relationship. What that means, I really don't know. Whether it gave me more freedom as a player or whatever, I am not sure.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibits 22, 23, 24 and 25 a series of documents.

Chamberlain Exhibit 22 is a one-page document which is entitled Return Receipt Requested.

Exhibit 23 is a copy of a two-page letter dated July 31, 1973, addressed to Mr. Wilt Chamberlain and the signature line of Pete Newell.

Chamberlain Exhibit 24 is a copy of a Uniform Player Contract dated July 31, 1973, between California Sports, Incorporated (Los Angeles Lakers) and Wilton N. Chamberlain, which is signed only by the Lakers.

Exhibit 25 is a copy of a two-page document entitled Agreement, which is signed only by California Sports, Incorporated.

(Whereupon, the above-mentioned

documents were marked Chamberlain Exhibits 22, 23, 24 and 25 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I show you what has been marked as Chamberlain Exhibit 22 and ask you whether this is a copy in the middle of the page of a Return Receipt Requested that you signed.

A It doesn't look like my handwriting.

Q Do you recall signing a Return Receipt Requested when your contract was submitted to you by the Lakers for your signature in the summer of 1973?

MR. LEMBERGER: Read that question back, please.

(Record read.)

THE WITNESS: No, I don't recall.

BY MR. WASSERMAN:

Q I will show you what has been marked as Chamberlain Exhibit 23 and ask you whether you recall receiving a copy of this letter.

A I can't recall right now.

Q Pardon?

A I can't recall, no.

Q The address on the letter; is that your residence?

A Yes, it is.

Q I will show you what has been marked as Chamberlain Exhibit 24 and ask you whether this is a

copy of the contract that was submitted to you by the Lakers in the summer of 1973.

A Could be.

Q I am going to show you what has been marked as Chamberlain Exhibit 25 and ask you if this is a copy of the agreement that was also submitted to you by the Lakers in the summer of 1973.

A When was this drawn up?

Q I believe on the second page is a date, which is the 31st day of July, 1973.

MR. LEMBERGER: What is the question?

THE WITNESS: I don't understand this. What does the date have to do -- does this mean it was sent out on that day?

MR. LEMBERGER: What does that mean?

BY MR. WASSERMAN:

Q The question was whether there was an agreement that was sent to you by the Lakers in the summer of 1973 for your signature.

A I don't recall, but I would like to ask a question.

When was the date this agreement was supposed to be sent; do you know?

Q I don't know.

A What was the date the contract was supposed to be sent; do you know?

Q All I have on here is the date of --

A Then, you don't know the date that the contract was sent? You know, what is the purpose of the 31st? What does that mean? Is that what time a secretary wrote that up? I don't quite understand. If you had some sanction date, I could understand the purpose of the question.

I would also like to be known, since I have been sitting here for four hours and I am trying to the best of my ability to help the situation out and answer all your questions and do whatever is possible to help get this court matter straightened away, that I think you are taking maybe two or three times as much time as needed to get this deposition finished, and if the deposition is not finished, it may make it look like I am not trying to cooperate with the court, which I am, and I only have so much time that I can give. So, I would appreciate it if you could expedite the rest of this questioning, you know, not to interfere with your legal proceeding and to disrupt your trying to do what is necessary.

Q I was told by Mr. Lemberger that Mr. Goldberg, your counsel, had been advised that the deposition might take the whole afternoon today, and I am sure Mr. Lemberger is aware that many depositions have gone on for a length of time.

A The whole afternoon?

MR. SCHATZEL: If I may interrupt. I am an attorney and I take a lot of depositions and the length of time it has taken you to get the questions asked is a lot longer than I have been accustomed to with other attorneys, and I think it could be speeded up and you can still get the information out. It has taken a hell of a lot more time to get a question asked than it is to get them answered, and that is not the witness' fault.

MR. WASSERMAN: I don't propose to respond to that other than to say that I think that is a very uncalled-for remark.

MR. LEMBERGER: I think that Mr. Chamberlain has made an accurate statement, and I think the record should reflect that I am in concurrence with his views.

MR. WASSERMAN: I think the record is going to have to reflect at this point what I was told prior to walking in today.

MR. LEMBERGER: I think you better state it accurately.

MR. WASSERMAN: Why don't you state it, Mr. Lemberger?

MR. LEMBERGER: I told you several things this morning, Mr. Wasserman. I don't know what you have in mind. All I am saying is whatever you put on the

record better be accurate.

MR. WASSERMAN: That is an outright, disingenuous remark that you just made. You know what it is I am referring to full well. I don't propose to take Mr. Chamberlain's time, but you know full well what it was that you said to me about your anticipating the witness' continued availability through the end of this afternoon.

MR. LEMBERGER: What I told you is that I did not know. That is what I told you.

MR. WASSERMAN: You gave me great reason to believe that there was a great degree of question about how long the witness would be staying.

MR. LEMBERGER: That is your interpretation, Mr. Wasserman. As a matter of fact, what I told you in front of Mr. Schatzel is that I did not know what time the witness would be leaving. I told you that it might be 1:30; it might be 2:30; it might be all afternoon. I said I had no knowledge and I told you as we walked in the door here that you ask the most important questions that you had as soon as you could to insure that you get all the necessary information, but I must say in the almost four hours since I made that statement, that we have gone here and there with general questions repeated two and three and four times, and I don't think you are going to have anything to complain about.

MR. WASSERMAN: I did, pursuant to your suggestion, endeavor to ask the most important questions first, but I don't think in any way my doing that should preclude me from conducting an orderly and complete examination of this witness, which I came 3,000 miles to do.

MR. LEMBERGER: Mr. Wasserman, please, please. I came 3,000 miles. Mr. Chamberlain came 3,000 miles, and we have done 75 of these so far. So, don't complain about the time that you spent or the amount of miles that you have traveled. You have taken an unbelievably long time to ask a series of questions that could have been done in half the amount of time and that is the point that Mr. Chamberlain is making.

MR. WASSERMAN: I just want the record to be clear that I don't intend to be in any way sandbagged by the comments that have been made to me either during or prior to this deposition.

MR. LEMBERGER: Mr. Wasserman, if you think I told you something else, you put it on the record right now.

MR. WASSERMAN: Mr. Lemberger, I don't propose to go into it at this --

MR. LEMBERGER: Then, don't make accusations that you can't back up.

MR. SCHATZEL: Let the record reflect that it has

been ten minutes since you asked the last question and the witness is sitting here patiently, so let's go.

MR. WASSERMAN: That is why I don't intend to go through all of the statements which I was going to make.

MR. LEMBERGER: Mr. Wasserman, I will not have the Court think that I told you something other than what I just stated on the record.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 26 a copy of an American Basketball Association Uniform Player Contract, dated September 15, 1973, between San Diego Professional Basketball Corporation and Wilt Chamberlain.

(Whereupon, the above-mentioned document was marked Chamberlain Exhibit 26 for identification.)

MR. WASSERMAN: I would like to state for the record that this is one of the documents that was given to me by Mr. Schatzel at the beginning of the deposition today.

Q Mr. Chamberlain, I show you what has been marked as Chamberlain Exhibit 26 and ask you whether that is a copy of the contract that you signed with San Diego in 1973.

A Is there a signature on it?

Yes, it seems to be.

Q At any time prior to the time that you signed this contract with San Diego did you discuss or inform the Lakers that you were going to or you had signed a contract with San Diego?

A Yes.

Q When was it that you informed the Lakers?

A Before I signed the contract. I called Mr. Jack Kent Cooke and informed him of my decision to try to work out a deal with the Conquistadors of San Diego, and I may add I thanked him for five years of employment and that was it.

Q Did Mr. Cooke say anything during that conversation?

A Nothing that mattered.

Q What did he say?

A I really don't recall.

Q Did you state to Mr. Cooke why it was that you were going to sign with San Diego?

A No, I did not.

Q Did he ask why?

A I don't recall.

Q Did he indicate that the Lakers were interested in having you play for them for the following season?

A No, but I do recall him making a statement something like well, you know, I was -- I should know what

I am doing, but he thought I was making a mistake, something of that particular nature, and that was, you know, pretty much it.

Q Did he indicate to you why he thought it was that you were making a mistake?

A No. He may have, but I don't recall.

Q Did you respond to him when he said that?

A No.

Q This contract with San Diego is a three-year contract; is that correct?

A Yes, I think it is.

Q The financial consideration indicated in Paragraph 2 is $200,000. Was that for each year or was that $200,000 for the three years?

A The $200,000 I think was for each year.

Q Was there any additional financial consideration other than the $200,000 that was a part of your contract with San Diego?

A Yes.

Q What was that?

A I don't recall exactly, but there was some money up front.

Q Was that in the form of a loan of some kind?

A I am not sure exactly the legal ramifications of what you want to call it in the form

of, just that there was some bonus money, I guess you would consider it.

Q As part of your contract with San Diego was there certain stock interest?

A Stock interest? In what?

Q either the San Diego team or the franchise.

A I am not really sure. There was some things to be worked out later.

Q What was it that was to be worked out later?

A Well, some numbers being involved in interest of the team.

Q Were there any other agreements between yourself and San Diego that were put in writing at or about the time of signing Chamberlain Exhibit 26?

A No, not that I can think of.

I would like to go back. Let me just hold on one second. I would like to talk to my attorney.

(Off-the-record discussion.)

THE WITNESS: Can I put something on the record, please?

Going back to those dates of the 31st that you were showing me about the Lakers sending me some -- I guess some contractual agreements and some other agreement pertaining to contracts, I would like to be

known that the Lakers, to my knowledge and recollection thereof, did not try to contact me but one time before the season. That was in the form of sending me a contract that I believe was dated like a couple of days or a day before the contract deadline, and up until that particular time, or up until that summer, we had always had much discussion between myself and Jack Kent Cooke and whoever in any kind of dealings, and so I was led to believe that they really weren't concerned with me being back with the Lakers next year, and they were only really going through the formality of sending out what is a standard contract that they are supposed to do with any of their respective players.

BY MR. WASSERMAN:

Q Did you seek to contact the Lakers?

A Did I seek to contact the Lakers? No. I never did before in those particular matters and I didn't choose to do it then.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 26 a newspaper article dated in a handwritten nature 9-19-73.

(Whereupon, the above-mentioned document was marked Chamberlain Exhibit 27 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I show you what has been

marked Chamberlain Exhibit 27 and direct your attention to one paragraph in particular which is the next-to-the-last paragraph in the third column.

A The next-to-the-last one?

Q Yes.

A Can I comment on that?

Q Fine.

A That is completely an erroneous statement and I have been on record as saying over the last three years or two and a half years, whatever, since I left the Lakers, that there had been no contact between I and the Lakers before I made my decision, you know, that I was not going to be with the Lakers any longer and maybe go with the San Diego Q's. I did not try to negotiate in one way with the Lakers after the 1972/73 season and many, many articles have assumed in their writing that I was negotiating with the Lakers and the Lakers were not willing to pay and that is why I went on to the ABA, but that is not true. There is no record of me ever negotiating at all with the Lakers for any amount of money after the 72/73 season.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 28 another newspaper article bearing the number stamp 20 24283 in the lower right-hand corner.

(Whereupon, the above-mentioned

document was marked Chamberlain Exhibit 28 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I show you what has been marked as Chamberlain Exhibit 28 and ask you to look at the fifth paragraph.

A (Witness reads document.)

Q Is that an accurate statement that money was not a factor in your signing with San Diego in 1973?

A Not a major factor or not the total factor, I should say, because major is something that changes from time to time.

Q What were the factors?

A Feeling like one belonged; a challenge; location, and many other things.

Q It also has been reported in a newspaper article, and I will just refer to the number which is 20 24241, that one of your main tasks would be to help negotiate with UCLA's Bill Walton.

Do you recall any discussions either prior to your signing with San Diego or after the time you signed about your role in helping to negotiate with Bill Walton?

MR. LEMBERGER: Is that for San Diego?

MR. WASSERMAN: Yes.

THE WITNESS: Only after I was a coach or considered

being a coach, if I were a coach, could I or would I, you know, the regular job of any particular coach, and Bill Walton would be a player, of course, any team would want to talk to.

Q Were there any discussions about that prior to the time that you signed with San Diego?

A There may have been. I really don't recall.

Q Did you, in fact, have any conversations with Bill Walton or anyone representing Bill Walton?

A No.

Q Prior to the time that you signed with San Diego did you have any discussions with any representative of San Diego about whether you might be able to recruit certain basketball players to play in the ABA?

A Recruit? Recruit from where, the streets of Harlem or --

Q From anywhere.

A Of course.

Q Did you have any discussions -- this is again prior to the time you signed with San Diego -- about the possibility of Caldwell Jones playing with San Diego?

A No, no. Not prior to the signing, no.

MR. LEMBERGER: Mr. Wasserman, I want to note for

the record that despite my earlier objection this morning to your asking Mr. Chamberlain questions which relate or appear to relate solely to the ABA cross-claim against the NBA, that I am permitting him to answer those questions. I would like to note an objection to your continuing to ask him these questions, but I will permit him to answer the questions and obviate any inputs that either Mr. Chamberlain or myself is attempting to restrict your inquiry of Mr. Chamberlain.

BY MR. WASSERMAN:

Q Did you have any discussions prior to the time that you signed with San Diego about the possibility of your assisting in having certain NBA basketball players come play in the ABA?

A No.

Q While you were a coach did you have any discussions with any basketball players in the NBA about playing in the ABA?

A Only ones that contacted me.

Q Which players contacted you?

A Flynn Robinson.

Q Any other players?

A There is one other player who did play with Phoenix, but he wasn't playing with them any longer.

Q Were there any players who were then under contract with NBA teams who were then playing with [illegible]

teams?

A No. Those were the only two that I personally believe I had a chance to talk to.

Incidentally, there was another player named Travis Grant, but I think the two teams got together on his particular arrangement.

Q Did you have any discussions with Jerry West about playing in the ABA?

A With Jerry West? No.

Q Did anyone from San Diego ever express to you that your signing with San Diego would enhance changes of there being a merger between the NBA and ABA or anything to that effect?

A Not really. I think it was kind of understood.

Q Was there any discussion about that, without relating to any particular language?

A No, not that I know of, not between me and San Diego. That would have made it much tougher to bargain with me, I would imagine, anyway.

Q Did anyone from the league office ever indicate that to you?

A League office?

Q ABA league office.

A I never talked to the league office.

Q Did you ever talk to Mr. Storren?

A Commissioner Storrer?

Q Yes.

A Yes, yes, after I was a coach.

Q Did he ever indicate this to you?

A After I was a coach?

Q Yes.

A No. We never discussed that, no.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 29 a copy of a letter dated September 19, 1973, addressed to Mr. Wilton N. Chamberlain, with a signature line of Alan I. Rothenberg.

(Whereupon, the above-mentioned document was marked Chamberlain Exhibit 29 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I show you what has been marked as Chamberlain Exhibit 29 and ask you whether you received a copy of that letter.

A I think I did, uh-huh.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 30 a copy of a letter dated October 8, 1973, which is a two-page letter, and it is addressed to J. Walter Kennedy, Wilton N. Chamberlain, and Seymour S. Goldberg, with the signature of Alan I. Rothenberg.

(Whereupon, the above-mentioned

document was marked Chamberlain Exhibit 30 for identification.)

BY MR. WASSERMAN:

Q I show you what has been marked as Chamberlain Exhibit 30 and ask you whether you received a copy of that letter.

A I don't recall that letter, but I may have received it.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 31 a copy of a letter dated October 4, 1973, addressed to Mr. Wilt Chamberlain, signed by Pete Newell.

(Whereupon, the above-mentioned document was marked Chamberlain Exhibit 31 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I show you Exhibit 31 and ask you whether you received a copy of that letter.

A I don't recall that one, either, but I probably --

MR. LEMBERGER: Don't guess.

THE WITNESS: I am saying I probably -- what is the date on that? October 4th? I probably wasn't reading the L. A. mail then. There would be no need for me to on that letterhead.

BY MR. WASSERMAN:

Q Do you recall hearing at any time that you had been suspended?

A No.

Q In September or October of 1975 did you or Mr. Goldberg have any discussions with the Lakers about rejoining the team?

A No.

Q Were there any conversations between Mr. Goldberg and a representative of the Lakers about whether you would play for the Lakers for the 1975/76 season?

A I don't know. There may have been.

Q Did you ever hear that there were?

A That I would play for them?

Q Discussions about whether you would play.

A I think there was some discussion.

Q What was said in those discussions?

A Only that I was willing to honor what was being said that I owed the Lakers in another year of contractual obligations.

MR. LEMBERGER: Off the record.

(Off-the-record discussion.)

BY MR. WASSERMAN:

Q Were there any discussions about the subject of your entering into a contract to play for the Lakers?

A No. I was supposed to have already had a contract.

Q Was there any discussion about entering into a new contract?

A Not that I know of.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 32 a copy of a telegram dated October 15, 1975, which is signed by David A. De Busschere.

(Whereupon, the above-mentioned document was marked Chamberlain Exhibit 32 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I show you what has been marked Chamberlain Exhibit 32 and ask you whether you have ever seen that telegram before.

A (Witness reads document.)

What was the question again?

Q Had you ever seen this?

A I heard about this from my attorney. I didn't see it. I heard about it from my attorney.

Q Did Mr. Goldberg have any discussions with Mr. De Busschere about this telegram?

A I don't know. I think he may have sent him a response, but I am not sure what it was.

Q Do you have any knowledge what in substance the response was?

A I guess it was maybe that we didn't owe them two more years.

Q Did you or Mr. Goldberg state the reason why you didn't owe them two more years?

A I think he probably did.

Q What was it?

MR. LEMBERGER: Do you know?

THE WITNESS: I don't know for sure, so therefore I don't know.

BY MR. WASSERMAN:

Q What was the reason?

A What was the reason?

Q Yes, that you did not believe that you owed them two more years?

A The reason I believe is because of financial failure and contract, San Diego. Failure to pay the contractual obligations; financial failure.

Q During your career in the NBA, Mr. Chamberlain, did you ever have any discussions with anyone about negotiations between the National Basketball Players Association and the NBA owners?

A Not that I recall.

Q Do you recall having discussions about demands that were sent by the National Basketball Players Association to the NBA owners at any time during your career in the NBA?

A No.

Q Mr. Chamberlain, I will show you what has been marked as Gambee Exhibit No. 1 and ask you whether you have seen this document before.

A (Witness reads document.)

MR. LEMBERGER: Have you ever seen it before?

THE WITNESS: Yeah.

BY MR. WASSERMAN:

Q Did you have any discussions with anyone connected with the National Basketball Players Association about this document?

A Yes.

Q With whom did you have discussions?

A Probably my player rep, whoever that was at that time. Keith Erickson, I think.

MR. LEMBERGER: 1963?

THE WITNESS: Is that '63?

BY MR. WASSERMAN:

Q '63.

A That wouldn't be Keith Erickson, then. '63 would be -- I don't really recall. I thought that this was a little more updated who I discussed it with.

MR. LEMBERGER: But, you have seen that before?

THE WITNESS: Yes.

BY MR. WASSERMAN:

Q Do you recall --

A Guy Rogers, I think it was.

Q Do you recall whether you had any discussions at or about this time with Mr. Lawrence Fleisher about the subjects referred to in this exhibit, Gambee Exhibit 1?

MR. LEMBERGER: In 1963.

THE WITNESS: I can't recall.

Was Lawrence around then? It must have been his first year.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 33 a copy of a letter dated September 5, 1973, addressed to Wilt Chamberlain, signed by Lawrence Fleisher, and I will ask the reporter to mark as Chamberlain Exhibit 34 a copy of a document which is in the form of a letter to Mr. Thomas Heinsohn with a signature line of Wilt Chamberlain and bears a date of September, then a blank, 1963.

(Whereupon, the above-mentioned documents were marked Chamberlain Exhibits 33 and 34 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I show you what has been marked as Chamberlain Exhibits 33 and 34 and ask you whether you have seen those documents before.

A (Witness reads documents.)

You ask me whether I am familiar with this?

MR. LEMBERGER: Whether you recall receiving it.

THE WITNESS: I think I recall receiving it, uh-huh.

BY MR. WASSERMAN:

Q Does this refresh your recollection as to whether you had any discussions with Mr. Lawrence Fleisher in or about 1963 about the Players Association?

A No, but it does refresh that maybe I had some discussion with Tom.

Q Tom Heinsohn, that is?

A Yes.

Q What in substance did you discuss with Mr. Heinsohn?

A Pretty much what is in that letter.

Q Did you, in fact, sign Chamberlain Exhibit 34?

A Do you have one signed by me?

Q I have not seen such a document, no.

A Well, I couldn't readily say, but I would imagine --

MR. LEMBERGER: Don't guess.

THE WITNESS: I couldn't say.

BY MR. WASSERMAN:

Q In January of 1964 there was an All Star Game in Boston; do you recall that?

A Yes.

Q Do you recall that prior to the All Star Game there was a threatened or proposed strike by the players?

A Yes.

MR. WASSERMAN: I will ask the reporter to mark as Chamberlain Exhibit 35 a copy of a one-page document which is dated January 14, 1964, and is addressed to Commissioner Walter J. Kennedy and is signed by a list of people.

(Whereupon, the above-mentioned document was marked Chamberlain Exhibit 35 for identification.)

BY MR. WASSERMAN:

Q Mr. Chamberlain, I will show you what has been marked as Chamberlain Exhibit 35 and ask you whether you recognize your siganture on that document.

A Yep.

Q Do you recall signing that letter?

A Yes.

Q Over what issue or issues was the strike threatened in January of 1964?

A I believe it was over the issue of pensions, pension-fund type of thing.

Q Was there any other issue about which there was going to be a strike?

A That seems to be the one that sticks out in my mind.

Q Were there meetings of the players prior to the time that this document, Chamberlain Exhibit 35, was signed?

A I don't recall.

Q Do you recall attending any meetings of players in which the subject of a possible strike was discussed?

A I don't recall.

Q Do you recall any players who did not agree with the possibility of striking?

A No, I don't.

Q Do you recall anything that you said at or about the time of the proposed strike at the All Star Game?

A Yes, I do.

Q What did you say?

A I didn't agree with us not playing the game. I agreed in principle with what we were trying to strike for, but I didn't believe in using the game as a forum to show our feelings.

Q For what reason?

A Because I just -- well, I felt that we were depriving basketball fans of seeing their superstars in

action and they had nothing to do with, you know, what was going on.

Q Did any of the players or Mr. Fleisher indicate that they disagreed with you?

A I am not really sure. I don't remember. I think there was some agreement and some disagreement, but I am not sure who and what and how many or whether Fleisher was one of them.

Q Do you recall in 1967 that there was discussion about the possibility of striking the playoffs?

A I don't really recall that, but -- I don't really recall exactly. I think there was, but I don't remember. For some odd reason that is not as strong in my memory as the Boston incident.

Q Do you have any recollection as to what issue or issues the strike in 1967 was proposed?

A From what I could think of, it would be the same thing as it was in the Boston thing.

Q Pension?

A The issue of the pension, you know, getting them to further agree to a better pension plan or whatever.

Q At any time have you heard any discussions about the possibility of the players in the NBA striking over the issue of the so-called reserve or option clause?

A No, no.

Q Have you at any time attended any Players Association meetings?

MR. LEMBERGER: Are we talking about the formal Players Association meetings?

MR. WASSERMAN: Yes, the annual or semi-annual meetings.

THE WITNESS: No, not I. Never was duly elected to go to Puerto Rico or. . .

BY MR. WASSERMAN:

Q At any time have you had any discussions with Mr. Fleisher or any other player in the NBA about whether there has been any negotiations between the Players Association and the NBA owners about the subject of the so-called reserve or option clause?

A No.

Q Did you ever participate in the process of selecting college basketball players to be drafted by the San Diego Conquistadors?

A No. That happened before I got there.

Q And for the 1974 ABA draft, did you participate in that selection process?

A No.

Q Is the present NBA college draft a reasonable practice designed to improve weaker teams in the league?

MR. LEMBERGER: Objection and I direct the witness not to answer.

THE WITNESS: Maybe if he rephrases the question.

MR. LEMBERGER: Mr. Wasserman can always try to rephrase the question.

MR. WASSERMAN: What is wrong with the form of that?

MR. LEMBERGER: You know what is wrong with that. It is outside the scope of the depo[illegible]cion and specifically I believe ruled by the judge. You can try it again.

BY MR. WASSERMAN:

Q Did you ever participate in the process of trading players while you were with the San Diego Conquistadors?

A Yes.

Q Are trades a reasonable practice designed to improve the teams within a professional basketball league?

MR. LEMBERGER: Objection. I direct him not to answer.

BY MR. WASSERMAN:

Q Is the present NBA trading practice a reasonable practice designed to improve teams within a professional basketball league?

MR. LEMBERGER: Same objection, and I will direct the witness not to answer.

BY MR. WASSERMAN:

Q Have you ever heard the term "balanced competition" before?

A Balanced competition? Gymnastics

Q As used in relation to professional athletic teams.

A I will be frank with you. I never really heard it as balanced competition, no. I think I know what you mean.

Q What is that?

A That you like to see quality among the teams so they can be competitive, right?

Q Yes.

Is equality among the teams in the interest of the league?

A That depends how you look at it, what you term equality.

Q Well, what you just described is what I was trying to paraphrase and ask you whether that is in the interests of the league.

MR. LEMBERGER: You mean the equality of the teams?

MR. WASSERMAN: Yes.

THE WITNESS: I think --

BY MR. WASSERMAN:

Q Competitive equality.

A Well, if you can find a way to get competitive equality, I guess it would be.

Q Is it also in the interest of the players?

A Competitive equality? It could be.

Q Is it in the interests of the fans?

A It could be, and that only means if every team played .500 ball it would be competitive equality and now for some fans they wouldn't like that; some players wouldn't like that; some owners wouldn't like that, but that would be equality, competitive equality, if everyone played .500 ball.

MR. WASSERMAN: I have no further questions at this time.

MR. LEMBERGER: I would like to state for the record that we consider the deposition closed.

MR. WASSERMAN: I would like to say in view of the directions in the deposition that we, of course, are not of the same opinion.

WILTON NORMAN CHAMBERLAIN

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

That on _____, 19____, the foregoing deposition was submitted to WILTON NORMAN CHAMBERLAIN, the witness, for examination and was read by the witness, at which time any changes desired were entered upon the deposition, and that thereafter the deposition was signed by the witness before me.

Notary Public in and for
the State of New York

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I, JO ANNE WHEATLEY, CSR # 3035 , Notary Public in and for the State of California, do hereby certify:

That prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify the truth, the whole truth and nothing but the truth;

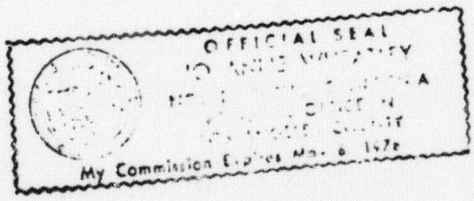
That said deposition was taken down by me in shorthand at the time and place named therein and was thereafter reduced to typewriting under my direction and supervision;

That the foregoing deposition is a full, true and correct transcription of my original shorthand notes.

I further certify that I have no interest in the outcome of the action.

WITNESS my hand and seal this 5th day of February , 19 76.

Notary Public in and for
the State of California



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSCAR ROBERTSON, WILLIAM BRADLEY, JOSEPH CALDWELL, MELVIN COUNTS, JOHN HAVLICEK, DONALD KOJES, JON McGLOCKLIN, McCOY McLEMORE, THOMAS MESCHERY, JEFFREY MULLINS, WESTLEY UNSELD, RICHARD VAN ARSDALE and CHESTER WALKER, individually and as representatives of all present and future active players in the N.B.A., Plaintiffs,	
v.	70 Civ. 1526
N.B.A., a joint venture, MADISON SQUARE GARDEN CENTER, INC., MADISON SQUARE GARDEN CORP., ALL N.B.A. TEAMS AND OWNERS, PRO BASKETBALL, INC. and AMERICAN BASKETBALL ASSOCIATION, Defendants.	

June 23, 1976
10:00 a.m.

BEFORE: HON. ROBERT L. CARTER, D.J.

A P P E A R A N C E S:

Mr. Fleisher
Mr. Gruneberger
Mr. Quinn
Mr. Warren

Mr. Gallantz
Mr. Stern
Mr. Cardoza
Mr. Miskin
Mr. Wasserman

Mr. Felleman

Mr. Berger
Mr. Phillips

Mr. Boone

Mr. Cleveland

MR. GRUNEBERGER: Your Honor, representing the class --

THE COURT: The way I want this to proceed, Mr. Gruneberger, I think I would prefer to hear from those who are opposing settlement first. I have read all the papers. Then I will allow you and whoever, Mr. Stern or Mr. Gallantz, or Mr. Cardozo, reply.

MR. GRUNEBERGER: Fine. I agree with that procedure. I believe the proponents have satisfied their version. We have not gotten any papers back from the objectors and so far as far as we are concerned they have not satisfied --

THE COURT: This notice was mailed on the 5th of May?

MR. GRUNEBERGER: Yes.

THE COURT: Opposition was supposed to have been filed --

MR. GRUNEBERGER: June 4. Opposition was filed a couple of days late. We have not seriously objected to that.

THE COURT: I have heard three in opposition that we have received so far. I'll hear from Mr. Walker and so forth.

MR. BERGER: May it please the Court, I'm

pgr

here representing two objectors: Chester Walker, w
here in court, and Clifford Ray.

THE COURT: I recognize Mr. Phillips.

MR. BERGER: He's associated with my

THE COURT: I thought Mr. Phillips was
to do the talking.

MR. BERGER: One of the reasons I am
whether it was through lexis or some other research
guise, I find a large number of cases that have bee
cited against me in which I have been involved pers
and I come here to try to clear up some of the mis
standings of the Court and my distinguished brethre
to what those cases were and what they really are.

THE COURT: That's for being so succe
in settling cases, Mr. Berger: That's the price
to pay.

MR. BERGER: May I begin by saying we
not here to try to obstruct this settlement, sir.
are here to accomplish a result which would be fai
equitable to the class and to the objectors. I w
explain very briefly how this can be done pragmati
and consistently with the requirements of due proc
Hanesberry and Lee and the requirements of Rule 23

THE COURT: My own view is that none

have any standing. As I understand the rule, no affidavits have been filed and therefore no facts. You have argued against the settlement but my view is that there have to be some facts presented for me to consider.

The threshold question in my mind is whether you have standing.

MR. BERGER: I think we have standing for a variety of reasons.

The first and most important is that it is the uniform rule particularly in the Second, Third Circuit, as well as the Fifth Circuit, that a judge hearing a proposed settlement must allow any objector a full opportunity to develop a record and to have a meangingful opportunity to do that.

I'm relying primarily upon Gersh and Jefferson, which we cited to your Honor in one of our papers in the Third Circuit, Newman and Stein of the Second Circuit, and the Grinnell case, which my opponents cite against me, which I say actually is in accord with the principle which I am here advocating.

I think at the threshold there are two methods by which I should be permitted to develop that kind of record which the Courts of Appeals have said the district court must have before the district court

may approve a settlement proposed.

The first is to allow me to explain, with due reference to your Honor, sir, why this is not a true 23(b)(1) case, class, and then to move on to the procedural aspect of this even assuming, arguendo, that your Honor may disagree with my statement of the law or its interpretation in the context of this particular case.

THE COURT: Since I have already ruled and made the ruling on the class I obviously disagree with you.

MR. BERGER: In effect, I'm asking you in the context --

THE COURT: You are asking me to reconsider?

MR. BERGER: At this juncture for a particular purpose.

As I read the papers that have been filed here in opposition to our objections, your Honor, particularly Mr. Gruneberger's, they assert vigorously that this is a 23(b)(1) case such as your Honor has certified and that in that context nobody has a right or a privilege to opt out.

It is our impression that this is not a true 23(b)(1) case because as the advisory notes, the

Rule 23 points out, that kind of class is one in which you have a possibility that certain members of the class are going to be demanding one course of conduct and certain members will be demanding an inconsistent course of conduct. It does not mean that where you have a number of people in the class, some of whom will get something and others won't, that that means that it's a 23(b)(1) case.

To give an example, where a municipality, like the City of New York, puts out a bond issue, that's a true 23(b)(1) class where someone challenges the validity ofthe bond issue. Some banks and some others might say it's valid and others aay it's invalid.

I cite to your Honor the Landau case, with your Honor's permission, in the Southern District of New York, Landau v. Chase Manhattan.

THE COURT: Did you use that in your brief?

MR. BERGER: 367, F. Supp. 992. I think it's cited but I'm not sure.

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Now, I read the briefs -- by the way, we did not get them until a few minutes ago, the NBA brief or affidavits, and only two days did we receive the plaintiffs' briefs and affidavits.

Now, no case cited by the proponents of this settlement involved a boycott which is a per se antitrust violation and for which substantial damages are sought in a settle obtained.

We say to your Honor that this is a sui generis case. The closest case I can think of which relates to this is Pasa which is another of my cases in the Southern District of New York, Judge Gurfein, I think his last case before he was promoted to the Second Circuit, your Honor. That is 64 Federal Rules decisions, 34.

That is a case where as here you have people that have an ongoing relationship and you had a request for affirmative relief but you also had a request for substantial damages. Judge Gurfein ruled that it was a 23(b) case.

THE COURT:Mr. Berger, I think you made that argument in your papers. I have read it and I will read the cases that you suggest but it seems to me that at least as far as I am concerned, unless I find something unusual -- some time ago I think I went through this and

made my decision and unless I find something unusual in the case law it is very doubtful I am going to change that.

I would suggest if there are any further cases that you want me to read I will do that. That you can hand up to my clerk but you better move on to the issue that we are here for whch is your objection to the settlement.

I want to add that unhappily I don't have but so much time and I want to give full time to everyone else to talk but I think you better move on to another subject.

MR. BERGER: Could I, your Honor, just have a few more moments on this?

THE COURT: No, I think I had enough. I read your papers and I suggest you move on.

You made the point in your papers and it is up to me to read the cases and find whether I agree with you or not.

MR. BERGER: Well, we would suggest, your Honor, that Walker's situation is unique and that being a unique situation in this context right now, there is a pragmatic and proper way of handling the situation which is to carve him out of the settlement. That would not be opting out. That is what happened when Judge Collins said when confronted with a similar situation.

It is too late to opt out so to that extent it is very similar to what we have here, there is no question to opt out.

Judge Collins said if you don't like the settlement why don't you carve him out.

THE COURT: My feeling is perhaps you or Mr. Phillips should have filed that brief along with the returns from the NBA when the matter was before me about a year or so ago. I think that would have been the appropriate time.

MR. BERGER: I would suggest to your Honor that it would still be appropriate.

THE COURT: I doubt it, but let's move on.

MR. BERGER: Now, before we get to the merits, and I must put on the record our objection here to the procedure, we are relying upon Gersch and Jepson which we cite in our papers and Grinnel in the Second Circuit and Stein in the Second Circuit cited in our papers and Young v. Cohen in the Fifth Circuit.

We respectfully say to your Honor that for us to receive affidavits 48 hours before the hearing and hand us affidavits today at the hearing or allege that they were at our office late yesterday does not comport with due process and Gersch and Jepson, that very question

arose --

THE COURT: Mr. Berger, please. Notices were sent out and you knew about this, you were given time to submit your opposition and that is what due process means, to give you an opportunity to present your case and you are here.

MR. BERGER: We did, your Honor, and we submit that we acted very diligently within the period of time required by the notice. We filed our papers, filed our motion and we file interrogatories, as for discovery and were handed an order this morning saying our motion was denied, that the parties were ordered not to respond to our requests for discovery.

We say that under Gersch and Jepson this is erroneous and precludes us from having a meaningful opportunity to bring before your Honor all the relevant facts.

For example, Mr. Gruneberger's affidavit, which we just got, in his papers, he says one of the principal reasons for upholding this settlement is that of the financial condition of the NBA. He bases that on certain representations made to him. There is no way we have to know what the representations were, what his conclusions are based on, what are the financial facts upon which such

a drastic conclusion could be drawn.

In Young v. Cohen that alone was held sufficient by the Fifth Circuit, your Honor, to upset the settlement at the Circuit Court level.

So we say that in considering the merits whether or not this is a reasonable settlement we have a right to discovery. There is no way we can get that without having the discovery we are seeking.

THE COURT: The reason that I issued my order, let's put that on the record, is because I think you had ample opportunity, at least Mr. Walker had ample opportunity to discover and participate in discovery and knew what was going on and as a matter of fact the every papers that you filed indicate that you hadn't taken advantage of the opportunity because you obviously had not read the terms of the settlements.

MR. BERGER: They were read at the time they were made available, your Honor, and I would like to stress that our opponents seem to think that making the bold assertion tht Mr. Walker knew about this and kept abreast of the settlement negotiations, Mr. Walker is in court this morning and he will testify that is not a fact and that can be contradicted by his live testimony, that he had the basic factsupon which the procedure today seems

to rest.

We would like an opportunity to develop a record. There are other instances here. The question of the quantification of the economic benefit, broad statements made in the papers and the affidavits, the great and enormous economic benefits to the members of the class of this settlement, quite apart from the monetary aspects.

We don't find any documentary or other backup for that and it seems to us that we have a right to get discovery, to find out what this is all about.

THE COURT:Mr. Berger, I think that you are confusing two things. The issue in terms of discovery were issues that were raised in these proceedings, which went to the question of antitrust violations which were alleged. Those were the issues that were discoverable.

What you are now arguing is an argument that Mr. Gruneberger or whoever else, on the radional that was put forward to support the settlement but they are two different things and you are confusing them.

You are entitled to discovery in regard to the issues that were before the Court in respect of the matters which were raised in this case. You have confused the two.

MR. BERGER: Your Honor, if I may be heard very briefly on that. I respectfully suggest to your Honor that is where we differ. I say that we have a right not to a discovery of what was discovered, we accepted the discovery already made. What we have a right to is discovery on the conclusory statements which were suggested to your Honor as a rational for this settlement. WE are not saying we want to retry this case or re-pretry it. All we are saying is that we have a right to find out the basic aspects.

If your Honor is goingto take the position that we don't have that kind of right I will stop, having made my point and go on to the merits.

I think you made your point.

MR. BERGER: All right, sir.

On the merits I would say this, we are willing to prove by the record, by live testimony or by depositions and other bases of discovery, that there ae certain basic inequities in this settlement proposed to you, basic on the face.

For example, the allocation scheme is inherently unfair particularly in respect to Mr. Walker in that Mr. Walker gets treated the same because of the numerical criteria used as any other person who played as

long as Mr. Walker although he is earning maybe eight times as much as that person. He was on the $165,000 a year scale and he gets as much out of this as somebody at the minimum level of $20,000. We do not believe that is fair or equitable, sir.

Secondly, we would like to have discovery to show the unfairness and inequitability of the continued operation of the option clause for one year instead of knocking it out entirely and, secondly, for the enforced compensation rule which continues for a substantial period of time hereafter.

We would like to develop a record on those. We submit to your Honor on the basis of the current record it is just not correct or proper to overrule our objections. It was for this reason that I suggested, and I hope you will forgive me and I am going to sit down now, but the best way to handle this would be to simply carve out the objectors and go forward.

Thank you very much for your patience, sir.

MR. PHILLIPS: I would like to confer with Mr. Berger and make a few comments.

THE COURT: I heard Mr. Berger. I would like to hear from some of the others.

MR. GRUNEBERGER: Do you want me to reply

to this on behalf of the proponents before the others --

THE COURT: No, why don't you keep notes and reply all at once. I will hear you and Mr. Stern and the others but not twice.

MR. BOONE: Your Honor, John Boone, representing Mr. Chamberlain.

I think you are familiar with the facts of Mr. Chamberlain's rather unique situation in that he has not been for some time an active member of the class which is now before the court and has been before the Robertson case --

THE COURT: What do you mean by that?

MR.BOONE: He has not been an active player. The facts arose in September and October of last year upon which Mr. Chamberlain has suffered damage upon which Mr. Chamberlain filed a separate action in Los Angeles.

I took the position at one time that that is a totally separate cause of action when I was here last January. This was after you certified the class. This was after the class.

It is elementary in most antitrust cases that you cannot recover damages for acts or new causes of action after the antitrust complaint had been filed. There was an amendmentto the complaint in this action,

that is true, in December.

Our objection to the settlement is not to the settlement but to the attempt to bring in Mr. Chamberlain into the class and at a time when the case has been pending for six years, the cause of action did not even exist when the case was filed and did not exist for six years until after the case was filed.

THE COURT: You mean he was already in and you mean not letting him out?

MR. BOONE: Not bringing him in in the new cause of action. The man could have three or four causes of action. I am objecting to bringing in the 1975 cause of action, the September, October cause of action.

Mr. Chamberlain has had no discovery, his class counsel has had no discovery as to what this cause of action is all about.

Mr. Michael Burke filed and I got yesterday an affidavit saying that the New York Knicks were prepared to give him a substantial amount of money. Who in this room could tell how much money that is? No one can tell me because there is no discovery of that cause of action.

Who in this room could tell me what Mr. Burke

would have done. No one who is in this room could tell me because there was no discovery on this point.

There was some hypothetical discovery in June prior to the cause of action accruing, in June 1975. Instructions were given, that was hypothetical and that came after the class was certified.

I don't want to object to what I consider a very good job by counsel for the class and an excellent job by counsel for the NBA. All I want to do is find some way to get out and try Mr. Chamberlain's good antitrust cause of action in this case.

I say that because the class and I respectfully submit that you can do this at the present time, limit this class to encompass or limit this settlement to encompass only causes of actions which accrued at the time you certified the class, May of last year. That will take care of it.

You can limit it to injury sustained while the player was an active member of the NBA. Mr. Chamberlain is unique in that sense because he is not and has not been an active member of the NBA and his cause of action accrued when he was not an active member of the NBA. I am talking about causes of action, not individuals.

Again, I don't want to repeat the objections

and Mr. Berger's arguments because I know that you have them but I firmly believe this is not an appropriate case to require someone to take a monetary settlement without giving him an opportunity to opt out. Mr. Chamberlain should be given an opportunity to opt out if this settlement is going to cover it.

pgrl

THE COURT: I have difficulty. While there may be some contractual action or claim that Mr. Chamberlain has that's unique, it appeared to me and I think I have indicated that in the memorandum I filed in regard to this case, that the antitrust issues are the same kind as those that were raised in the case in chief. As far as I could see, there was no difference between them. Had I seen a difference between them I would be able to buy your argument. I see no difference between them. The fact that he's pinched at a later time is not the issue as to whether or not the cause of action differs or is the same, it's a cause of action with which this case was commenced. That's the issue.

We disagree. I would like you to explain it to me. I obviously want to be clear on it.

MR. BOONE: I'm not sure we disagree. I think only in the use of the words "cause of action" may we disagree. "Cause of action" I think in antitrust concepts includes not only the violation, which is a boycott violation, it also includes the impact or causation and it also includes damages, and those three things have to coincide in point of time before we have an anti-trust cause of action.

THE COURT: Are you therefore telling me

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that it is your contention that Mr. Chamberlain, unlike anybody else in the NBA in the period of time that he was playing and active, did not have an antitrust cause of action?

MR. BOONE: I'm saying he had an antitrust cause of action then but he had a separate one in September and October of last year, a separate antitrust cause of action, because that was when, as Mr. Berger says, he was willing to pay a substantial amount of money for his services buthe had to pay off IA first.

The only way I can see to protect Mr. Chamberlain's right in this case is first of all to be very careful in delineating who and what cause of action is bound by this settlement agreement. If you restrict this settlement to causes of action which accrue as of the time that you entered your class action certification, then I will have to rethink my objection. I have a feeling that that might satisfy me. I would be taking some chance because of the special master provision which in effect says I can't decide --

THE COURT: If I agreed to that limitation I think the settlement would fall apart.

MR. BOONE: That's up to the NBA. I don't know what position they take on it.

pgr3

The second way out of this dilemma as far as I can tell, and even though you disagree with me, I think when you have a damage claim you have to allow the person who is being forced to settle to operate out of that class. At some point in time Mr. Chamberlain should have been given an opportunity to operate out of the class if his damage claim is involved.

Thank you.

MR. BERGER: There is a point I should have mentioned to your Honor.

Mr. Walker is in the same situation, that is that the damages which he wants to be carved out of this particular settlement are as a result of violation impact of damages which occurred five years after the complaint was filed here and fairly recently. That's essentially what our position is. We are not trying to hold up the settlement. Let's have on the record the statement that if we have some right to litigate that, which we think we have, and we have not been given any opportunity to opt out as to that, we should be permitted.

By the way, would your Honor listen to any live testimony? We have Mr. Walker here, certain aspects as to whether he was aware of the settlement as suggested in the papers.

pgr4

THE COURT: Mr. Walker is going to indicate he didn't get a copy?

MR. BERGER: It was asserted that he was kept abreast of the negotiation. We wish to contradict that as a matter of record.

THE COURT: Put him on.

C H E S T E R W A L K E R , called as a witness in his own behalf, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PHILLIPS:

Q Mr. Walker, you were at one time player representative for the Chicago Bulls Basketball Team; is that correct?

A That's correct.

Q During what years did you serve in that capacity, sir?

A From 1969 to 1975.

Q During that time you became a named plaintiff in what has become known as the Oscar Robertson suit against the NBA?

A That's right.

THE COURT: That was at Mr. Fleisher's request?

THE WITNESS: That's correct.

THE COURT: Am I to understand you didn't enter into this case on your own free will? It was at Mr. Fleisher's insistance? Is that what you are telling me?

THE WITNESS: It was at his suggestion, yes.

THE COURT: All right.

Q Mr. Fleisher, did he keep you abreast at all times of the progress of the action?

A Up until what point?

Q After the action was filed, did you have conferences with Mr. Fleisher regarding the progress of this action, Mr. Walker?

A Not that I can recall, no.

Q Getting to 1974-75, was that the last year you played for the Chicago Bulls?

A That's true.

Q Is it correct that during October of '74 you had signed a one-year contract with the Chicago Bulls?

A That's true.

Q And that contract contained an option clause, is that correct?

A Yes.

Q It's also correct that during 1975 the Chigago

Bulls deemed fit to exercise that option, is that correct?

A That's correct.

Q Subsequent to the 1974-75 season and prior to the beginning of the '75-76 season did you have contact with anyone from the Chicago Bulls regarding your playing career?

A Yes, I did.

Q Who was the first person from the Chicago Bulls organization with whom you had contact regarding your playing career?

A Mr. Dick Mota, who is the director of player personnel.

Q When did that contact take place?

A I don't recall the exact date,but it was the month of July, I think.

THE COURT: I think, Mr. Phillips, you better keep this on what you put Mr. Walker on for, and that was the issue, as far as I understand it, as to whether or not he was kept apprised of developments in this case.

MR. PHILLIPS: I think I can also go into the issue, since it has been raised in the papers that have been served by Mr. Gruneberger and the affidavits by the

NBA, and also by the people in the Players Association stating, that Mr. Walker voluntarily retired from basketball; I think that should be cleared up to this Court --

THE COURT: That's beside the point. If he has any right to object to the settlement, which he does, it does not make any difference to me whether he is retired or not.

MR. PHILLIPS: Hear me on the point I wish to bring out: the point is that Mr. Walker did not play basketball during the '75-76 basketball season for the Chicago Bulls and in a certain measure relying on Mr. Fleisher's assertion to him that the NBA was carrying this case forward and the option clause was invalid, Mr. Walker relied on this when he decided not to play during the '75-76 season and he has a right to bring this out when your Honor has sent out a notice to come forth and be heard if you wish to.

Mr. Walker has traveled from Chicago here to be heard as to why he didn't play during that time, and why he thinks he is entitled to damages by reason of the fact he did not and why he thinks this settlement is inadequate and the settlement does not provide a cure for the ills that have begotten him at the hands of the Players Association and the NBA combined. That's what Mr. Walker wishes to

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talk about from the witness stand.

THE COURT: Let's assume that I will take your statement as establishing those facts.

Let's proceed. As a matter of fact, I don't think Mr. Walker could make a better statement of the issues than you have already.

MR. GRUNEBERGER: We don't agree with that statement of facts.

THE COURT: That's what he wants to say; that's what he wants to put before me.

MR. GRUNEBERGER: I have no objection to him saying it. It's not true.

MR. PHILLIPS: The facts being placed in issue before this Court, I think it's incumbent upon the Court to hear from the witness as to these facts so the Court can make a determination --

THE COURT: If you want me to hear from the witness as to the facts I would suggest you do a little less exposition of the facts.

MR. PHILLIPS: As I took the situation, your Honor was curtailing further examination in this area until I outlined it in terms of an offer of proof.

THE COURT: You have already outlined it and it's before me.

Q At the time you spoke to Richard Mota during July of '75, what did Dick Mota say to you regarding your playing career and your situation with the Chicago Bulls?

A He indicated to me that he had had young players which he was trying to develop and that if he had a team that was capable of winning the championship he would need my services but he did not, so therefore my services were not needed. After that I asked him about a trade and he said that he would not trade me.

Q Did you have conversations with Mr. Koegler of the Chicago Bulls?

A A few months after that I had conversation with him, yes.

Q Did you discuss trade with Mr. Koegler?

A Yes, I did.

Q Did you have conversations with Mr. Arthur Wertz of the Chicago Bulls?

A Yes.

Q Did you discuss trade with Mr. Arthur Wertz?

A Yes, I did.

Q Did you at any time officially retire from the game of basketball?

A No, I did not.

Q Was it ever your intention to do so?

A No.

Q Did you ask Mr. Wertz if he would trade you?

A Yes, I did.

Q What was his response?

A He said he would not trade me; that he wanted me to retire as a Chicago Bull.

Q Did you have conversations with Mr. Fleisher regarding the option clause and the validity thereof?

MR. STERN: We have withheld our objection to the form of questions up to now, but Mr. Phillips is virtually testifying by leading the witness.

THE COURT: That's true.

MR. PHILLIPS: I will rephrase the question.

Q During the latter part of 1975, the summer of 1975, did you have conversations with Mr. Fleisher?

A Yes.

Q What did these conversations center around, Mr. Walker?

A We discussed the possibility of him helping me get out of my situation in terms of getting employed with another basketball team.

Q Did you have any discussions with Mr. Fleisher regarding the option clause?

A As a players' representative I have had many discussions with Mr. Fleisher concerning the validity of the option and the reserve clause, yes.

Q Did you have discussions with Mr. Fleisher during the summer of 1975 regarding the operation of the option or reserve clause, whichever you wish to term it?

A Yes.

Q What if any advice did Mr. Fleisher give you regarding the operation of the option clause?

A We discussed the legality of it and this was part of the legal action that we had been taking in order to prove that this option clause was illegal.

Q Did Mr. Fleisher say anything to you regarding the outcome of that litigation?

A I really don't recall.

MR. PHILLIPS: I have no further questions.

I have tetimony to offer on behalf of Clifford Ray also. I would hold that in abeyance until Mr. Gruneberger or whoever is going to cross-examine Mr. Walker--

THE COURT: What do you mean by that?

MR. PHILLIPS: As to Clifford Ray, sir?

THE COURT: I assume that the argument that

is being made on behalf of Mr. Walker and Mr. Ray.

MR. PHILLIPS: The argument on behalf of Mr. Walker applies to his particular situation and the argument made on behalf of Clifford Ray tracks that in certain regards but this is a different situation.

THE COURT: I've heard the argument.

I'm still hearing argument in opposition to it.

MR. PHILLIPS: I don't mean to argue on behalf of Mr. Ray. I want to present to the Court and offer into evidence on Mr. Ray's behalf since this Court in its notice said that Mr. Ray had the option to come and be heard, he comes here to this Court through Mr. Berger and myself today to be heard and I don't think the facts are in dispute as to Mr. Ray.

Therefore, I told him he did not have to be here. In your Honor's notice you said he had the option of filing affidavits or briefs in support of his opposition. He elected not to do so but does wish to offer his contract into evidence during this proceeding to show this Court --

THE COURT: All right. I'll accept it.

MR. PHILLIPS: Thank you.

MR. GRUNEBERGER: I have no objection to

handing Mr. Ray's contract up. I was the one who gave it to Mr. Phillips in the first place. He didn't have his own client's contract.

THE COURT: All right.

MR. PHILLIPS: That is Mr. Gruneberger's normal courtroom manner.

I'll ask that this be received into evidence.

Thank you.

(Defendants' Exhibit A was received in evidence)

CROSS-EXAMINATION

BY MR. GRUNEBERGER:

Q Did you authorize filing of this lawsuit on your behalf?

A Yes.

Q In writing?

A Yes.

Q Were you a member of the Players Association at that time?

A Yes.

Q Were you a player representative at that time?

A Yes.

Q For Chicago?

A Yes.

Q Did you attend meetings of player representatives with Mr. Fleisher?

A Right.

Q Prior to the time the suit was brought?

A Right.

Q And thereafter; is that correct?

A Yes.

Q At any time did you state to anyone prior to Mr. Phillips appearing on your behalf most recently in that five-year period, did you tell anyone that you were opposed to this action?

A No, I did not.

Q Did you tell people you favored the action?

MR. PHILLIPS: I bject. It's irrelevant as to whether or not Mr. Walker was in fact opposed to the action. It's clear he was not opposed to the action. What he's opposed to is the settlement of this action. That's the issue that's germane today, not whether he is included in the action or wanted to be a party to the action as a player representative or as a player.

THE COURT: I have the point, Mr. Phillips. The objection is overruled.

Q Mr. Walker, please answer that last question:

Did you tell people you favored this action?

A Yes.

Q Did the Players Association have meetings with the player representatives periodically to discuss this action?

A Yes.

Q How many times a year, Mr. Walker?

A Approximately twice.

Q During the all-star break and after the season?

A Yes.

Q Did the Players Association discuss what the class counsel -- and by class counsel I'm referring to myself and my firm -- was doing in the case in this court and in Congress? Did they discuss that?

A Yes.

Q Did you raise any objection to what the class counsel was doing for the class at any time during those discussions?

A No, I did not.

Q Did you approve of what the class counsel was doing in this case and in Congress?

A At the time of that discussion ?

Q Yes.

A Yes.

THE COURT: Are we talking about a period 1969 to 1975?

MR. GRUNEBERGER: Yes, your Honor. From the commencement of this action in 1970 to '75, up until the time Mr. Phillips appeared for Mr. Walker.

THE COURT: Do you understand that?

THE WITNESS: Yes.

Q Did you as a class representative, a player's representative, for your term and as a class member receive periodic letters and newsletters from Mr. Fleisher explaining this lawsuit, Mr. Walker?

A Explaining the lawsuit?

Q The issues in it and what the class counsel was attempting to do by way of this lawsuit?

A I really can't answer that because I don't recall.

Q Do you recall your deposition being taken in my office in this lawsuit?

A Yes.

Q Do you recall newsletters being given to you by counsel for the NBA?

A Yes.

Q Do you recall identifying those and saying

you did receive them?

A Right.

Q At any time when you received, or thereafter when you received, such letters did you object to what was going on in this lawsuit on behalf of the class?

A No.

Q Were you aware of a settlement proposal that was made at the time of the Congressional episode in this case?

A A settlement proposal?

Q Yes.

A No.

Q You were aware of the episode in Congress, were you not?

A Yes.

Q You were aware that the two leagues were trying to merge in 1971?

A No. I was not aware of that.

Q You did not hear this discussed at any meetings?

A No. Not in that context no.

Q Did you ever hear that the Senate committee on monopolies, Senator Ervin's committee, was considering a bill to exempt the merger in 1971 from the antitrust

laws?

A I heard that.

Q Do you know what happened to that bill which would have exempted the merger?

A No.

Q Do you know whether the two leagues tried to merge so there would be no intra-league competition in 1971?

A I'm not aware of that.

Q If that was in letters to you as a class member and as a player representative, and that was explained, and you didn't read it, whose fault was that?

MR. PHILLIPS: Objection, your Honor.

THE COURT: Objection sustained.

Why don't we get down to --

MR. GRUNEBERGER: I have no more questions about the notice.

I will not go into questions with Mr. Walker of conversations he had specifically with me because they involve the attorney-client privilege. They're in the record already.

I think Mr.Stern might have some questions as to some other aspects.

BY MR. GRUNEBERGER:

Q Did you receive two class notices in this action, one dated September 19, 1975, and one dated May 5, 1976?

A I received the one May 5, 1976. But at this time I can't recall receiving the other.

MR. GRUNEBERGER: We filed an affidavit saying they were mailed to the last known address of each member. Mr. Walker's never came back.

Q Did you receive a letter from Mr. Fleisher dated March 1, 1976, explaining settlement?

A Yes.

MR. GRUNEBERGER: No further questions.

CROSS-EXAMINATION

BY MR. STERN:

Q Mr. Walker, you testified that you authorized in writing the commencement of this action; is that correct?

A Yes.

Q At the time that you signed that authorization what did you understand the purpose of the litigation to be?

A You mean an authorization with Mr. Phillips?

Q The authorization authorizing Mr. Gruneberger

in 1970 to commence this action.

A We were questioning the legality of the reserve clause or the option situation.

Q You understood the 1970 action to attack the legality of the option clause; is that correct?

A Yes.

MR. STERN: Your Honor, I would like to mark as NBA Exhibit 1 a contract dated September 14, 1974 between Chicago Professional Sports Corporation and Chester Walker.

(Defendant NBA Exhibit 1 marked for identification)

THE COURT: You can hand that up later after he has looked at it, Mr. Stern.

(Pause)

Q Mr. Walker, is NBA Exhibit No. 1 the contract under which you played for the 1974-75 season?

A Yes.

Q Was it your testimony that this contract gave Chicago an option for the 1975-76 season and they exercised that option?

A Repeat the question.

Q Did you not testify earlier that Chicago exercised an option for the '75-76 season?

A Yes.

Q What were the terms of that option?

A The same terms as they were on that contract.

Q I refer you specifically to page 7 of Exhibit 1 where the contract is defined as a no-trade no-cut contract. Would you explain to the Court what that means?

A The no-cut contract is a provision that guaranteed me my money in case of injury.

Q Doesn't it also mean Mr. Walker if you perform for the club and make yourself available to appear at their games that you may not be cut from the roster?

A Yes.

Q Did you make yourself available at any of the Bulls' practice sessions or games after the option clause was exercised and prior to withdrawing from the '75-76 playing season?

A No.

MR. STERN: I offer this in evidence.

MR. PHILLIPS: I have no objection. I've seen it.

(Defendant NBA Exhibit 1 was received in evidence)

THE COURT: Anything further?

REDIRECT EXAMINATION

BY MR. PHILLIPS:

Q Mr. Walker, are you satisfied with the proposed settlement of this antitrust litigation that you have been involved in?

A Personally I'm not satisfied with it, no.

Q From the time you became aware of the terms of this settlement have you been dissatisfied with this?

A Yes.

Q Prior to the settlement ever being announced, back in January of 1976, did you instigate litigation --

THE COURT: I know that. I know that. I have been personally involved in that.

Q Have you at any time indicated to Mr. Fleisher or anybody from the Players Association that you were satisfied with the terms of this settlement, sir?

A I have indicated to members of the class that I was not entirely satisfied with the settlement, yes.

Q You have never indicated that you were satisfied with the settlement, have you?

A No.

Q Prior to the announced settlement proposal,

didyou have conversations with Mr. Fleisher and Mr. Gruneberger wherein you complained of a special situation that is unique to you regarding your damages?

MR. GRUNEBERGER: Objection as to form.

THE COURT: I don't want these things to become a match between personalities. It's not very helpful.

MR. GRUNEBERGER: I will not indulge in that at all.

RECROSS-EXAMINATION

BY MR. GRUNEBERGER:

Q Have you read the settlement agreement?

A Yes.

Q Have you read the plaintiffs' allocations which denotes how many units each class member receives in the way of recovery from the settlement fund?

A Yes.

Q Do you know how much each class member will receive from the settlement fund?

MR. PHILLIPS: Objection. He can't possibly know what each class member has recieved. There are 479 class members.

MR. GRUNEBERGER: You stood up and made a speech as to people earning $20,000 who get treated the same way Mr. Walker does.

MR. BERGER: I said that.

MR. GRUNEBERGER: Addressing myself to that statement, Mr. Berger.

Q Do you know that,Mr. Walker, how much each class member receives?

MR. PHILLIPS: Objection.

THE COURT: Overruled.

A Do I know how much each class member received?

Q Yes.

A No.

Q Do you know whether there are any players in the class who earn substantially more than you from basketball who are receiving less from the settlement funds? Do you know that?

MR. PHILLIPS: Objection, sir. It's irrelevant and immaterial.

THE COURT: I thought that was your objection.

MR. GRUNEBERGER: That was Mr. Berger's very point.

MR. PHILLIPS: We talked about it overall structure of the settlement, not about specific individuals.

THE COURT: Am I to understand that that objection is withdrawn?

MR. PHILLIPS: No.

THE COURT: Then sit down. The objection has to be overruled.

Q Do you understand my question?

A Repeat the question.

Q Do you know of any players of the class who earn more money than you under their basketball contract who are receiving less than you in the settlement?

A Do I know of any?

Q Yes, sir.

A I can't answer that because I don't know how much money every player in the league is making.

Q Did you read Bob Lanier's affidavit in support of this settlement?

A Yes.

Q Did you see the statement he made there?

A Yes.

Q Do you have any basis in which you disagree --

A He mentioned that he was making more money than I was making but he didn't mention how much.

Q Do you have any groudns to dispute that?

A I can't, no.

Q Did you read Oscar Robertson's affidavit?

A No, I did not.

Q Well, he too stated under oath that he earned more than you and he was getting a recovery from the settlement based on exactly the same basis you were. He thought it was fair. Mr. --

THE COURT: He doesn't have to agree with that.

MR. GRUNEBERGER: I did not ask whether he agreed. I am saying that is what he said.

THE COURT: I think I have gone far enough. Is there anything else?

Q Mr. Walker, do you think that since you have objected to the fairness of the allocation, do you think it is proper to have a settlement allocation that is based on competitive factors in professional basketball?

MR.PHILLIPS: I object to that.

THE COURT: I am not even sure I understand that. What do you mean?

MR. GRUNEBERGER: Let me rephrase that, your Honor.

Q Our settlement allocation explains and the reason and the manner of allocation are explained. Did you read that, Mr. Walker?

A Yes.

Q Are you aware of the fact that that allocation

gives more weight to years played in earlier years, 1966 to 1970, than it does to later years? Are you aware of that?

A Yes.

Q You disagree with that, Mr. Walker?

MR. PHILLIPS: Objection as to relevancy.

THE COURT: I don't think it is objectionable but I don't think anything is going to be served by whatever the answer is.

I think that I understand the difference between the two positions and let us move on.

MR. GRUNEBERGER: I rest, your Honor.

THE COURT: All right, thank you.

(Witness excused.)

MR. GRUNEBERGER: Your Honor, if you want any comment made on the legal and procedural arguments raised by Mr. Berger from the proponents of the settlement I will argue. I think that our papers have gone unrebutted in writing and fully set forth the position of the class members.

I don't know whether Mr. Stern feels the same way from his clients' point of view. However, I am willing to answer any questions your Honor may have and willing to make an argument if you think it is necessary.

The point about lack of notice, which is the threshold question of the due process argument I must note for Mr. Berger's benefit, has fully been complied with in this case.

We only got his objections on June 7th, six weeks after the class notice went out and he got my reply on June 18th when it was served on local counsel, not 48 hours ago. That is the whole purpose of having local counsel and he should have checked with them.

THE COURT: I think that unless there is something particularly that you want to raise, I think that Mr. Berger's argument tracks the arguments made in the memorandum which you have submitted, affidavits and arguments in opposition. Unless there is something you want to particularly raise I don't think there is anything else.

MR. GRUNEBERGER: I don't think that Mr. Berger raised any new matter not in our papers.

MR. STERN: I would just like to place a couple of points on the record, your Honor.

Do I understand that the evidence and objections offered on behalf of Mr. Ray are his contract that was introduced in evidence?

THE COURT: Yes.

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MR. STERN: And that Mr. Ray's counsel rests with that?

THE COURT: Yes.

MR.STERN:With respect to Mr.Walker,Mr.Walker's case consists of his testimony and they have nothing further to put in?

MR. BERGER: Your Honor, we raise our opposition as to the discovery and --

THE COURT: I understand your position.

MR. PHILLIPS: The same applies to Ray.

MR. STERN: With respect to Mr. Chamberlain, there are no affidavits in the record. Mr. Boone rested on his --

MR. BOONE: That is not true, there are affidavits in the record, depositions, briefs, memorandas and there has been no effort to have discovery on the separate cause of action. The NBA is trying to grab more for their case than they are entitled to.

THE COURT: You mean what you want me to consider are the affidavits that were presented in the other case?

MR. BOONE: In the other case?

THE COURT: I don't think you have offered inyour opposition --

MR. BOONE: Any papers which I file pursuant to the class notice I attached as Exhibit A, items that we were relying on.

THE COURT: I have Exhibit A.

MR. GRUNEBERGER: Do you have that, your Honor?

THE COURT: That is what I asked. You are relying on affidavits that were filed in the lawsuit that you brought here in Chamberlain, is that correct?

MR.BOONE: When I was here in January, we were before you in January.

THE COURT: That is what I asked.

MR. BOONE: The deposition was taken afterwards. There has been no deposition of anybody in the NBA on our cause of action.

THE COURT: You have me confused. I have that. This is an affidavit filed in the suit when we had the hearing before me in January.

MR. BOONE: Yes, your Honor.

MR. STERN: Your Honor, I would only make two additional points.

First, I haven't alleged to Mr. Berger that I served him by hand yesterday in Philadelphia, I have told him that. And the man who served him is here in

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court. In addition, we served his local counsel as well.

This concept that Mr. Berger has just attempted to mesh these facts into a Jepson holding, Mr. Berger is familiar with that, that somehow this settlement is an attempt to put something over on them and that is somethint I can't let go by without responding by indicating that Mr. Gruneberger's fee application which sets forth the benefits that Mr. Gruneberger is asking and believes he has gotten has been on the record for a rather long period of time.

And that the affidavit served on Friday and yesterday were in response to specific objections raised by the objectors.

With respect to the claim of uniqueness as to Mr. Walker and Mr. Chamberlain, simply stated that Mr. Chamberlain's cause of action is an allegation about some rule or practice which occurs to a player at a particular stage in his career and the same is true with respect to the option clause that Mr. Walker complains about.

Players have attacked the broad scale of this and the NBA has defended its legality but if a player can have a new cause of action each step he progresses through his career to the compensation or the option clause there

would never be a settlement of this lawsuit.

THE COURT: All right, I will close the hearing. The hearing is closed. I will file an opinion on this as soon as I can.

But as is my practice, particularly in this kind of litigation, I think that it is highly unlikely that I will disapprove the settlement.

As I understand it, there are nine factors that I am to consider in determining whether a settlement is or is not, should or should not be approved. Those factors were set out by the Second Circuit in a case that Mr. Berger cited, Grinnell. They are:

One, the complexity, expense and likely duration of the litigation.

Two, the reaction of the class to the settlement, which is overwhelmingly in favor I might say.

Three, the state of the proceedings and the amount of discovery completed.

Four, the risk of establishing liability.

Five, the risk of establishing damages.

Six, the risk of maintaining the class action throughout the trial.

Seven, the ability of defendants to withstand a greater judgment.

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Eight, the range of reasonableness of the settlement fund in light of the best possible recovery.

Nine, the range of reasonableness of the settlement fund to a poissible recovery in light of all the attendant risk of litigation.

It seems to me on the basis of my own knowledge of the litigation and what has occurred and on all of those grounds, it would appear to me that if I were considering those, the settlement would have to be approved.

I think also that it does appear to me this is a settlement which for the most part as far as I understand it the players themselves and their representatives participated in dictating its terms. Under those circumstances I certainly feel that the people involved can live with this much better than one who is wholly opposed but I will read the cases that have been cited to me by Mr. Berger.

Although I think procedurally Mr. Walker and Mr. Ray have not met their burden of even threshold standing, I think it would be better for me to make a decision on the merits.

I will read the cases and will consider what has been presented to me but as I said, I am reasonably sure I am going to approve the settlement and my opinion will

be filed some time before July 31st.

MR. BOONE:One question, your Honor.

In January when you issued the temporary restraining order you said it expired when the Robertson case was terminated.

Do I understand when you issue your judgment in this case that is a determination of the restraining order?

THE COURT: The restraining order is not terminated until the case between the NBA and the ABA has been resolved and that is now in the beginning process, negotiations for a settlement, as I understand it. The players in the -- I am sorry, we are talking about two different things.

The restraining order as far as your client is concerned, I think what you better do, if you want to resurrect anything I think the proper thing to do is after this matter has been disposed of, to file and ask that you get some clarification. I just don't know at this point. It seems to me that you can let me know what survived, and I will then be in a position to make some rational decision about the matter. But I was confused, you are talking about the restraint against Chamberlain?

MR.BOONE: Yes.

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THE COURT: You ought to make an application to the Court, file it and serve it on the NBA as soon as my opinion on the settlement is filed.

MR. BOONE: Thank you.

MR.PHILLIPS: Would that be applicable to Walker? We are in a similar position.

THE COURT: Yes, of course, as to both.

But I want to tell you, Mr. Phillips and Mr. Boone you have to understand that in my judgment the two matters that have been presented to me are the same as the matters of the case and what you have to do is show me how after the settlement what survives, what is different.

MR. PHILLIPS: In addition, Mr. Walker has requested that he be allowed to make a brief statement in his own words.

Will you allow that, sir?

THE COURT: I don't think so. I think I have heard Mr. Walker through two counsel and I have heard him on the witness stand and I think that is sufficient.

MR. GRUNEBERGER: Thank you.

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1664

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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OSCAR ROBERTSON, WILLIAM BRADLEY, JOE CALDWELL, ARCHIE CLARK, MEL COUNTS, JOHN HAVLICEK, DONALD KOJIS, JON McGLOCKLIN, McCOY McLEMORE, THOMAS MESCHERY, JEFFRY MULLINS, WESTLY UNSELD, RICHARD VAN ARSDALE and CHESTER WALKER, individually and as representatives of all present and future active players in the National Basketball Association,

Plaintiffs,

- against - : 70 Civ. 1526

NATIONAL BASKETBALL ASSOCIATION, a joint venture, MADISON SQUARE GARDEN CENTER, INC., MADISON SQUARE GARDEN CORPORATION, MILWAUKEE PROFESSIONAL SPORTS & SERVICES, INC., THE CAPITAL BULLETS BASKETBALL CLUB, INC. (formerly THE BALTIMORE BULLETS BASKETBALL CLUB, INC.), RIKO ENTERPRISES, INC., KINGS PROFESSIONAL BASKETBALL CLUB, INC. (formerly CINCINNATI BASKETBALL CLUB COMPANY), BOSTON CELTIC BASKETBALL CLUB, INC. (formerly TRANS NATIONAL COMMUNICATIONS, INC.), DETROIT PISTONS BASKETBALL COMPANY (formerly ZOLLNER CORPORATION), ATLANTA HAWKS BASKETBALL, INC., CALIFORNIA SPORTS, INCORPORATED, THE CHICAGO PROFESSIONAL BASKETBALL CORPORATION, PHOENIX PROFESSIONAL BASKETBALL CLUB, GOLDEN STATE WARRIORS (formerly SAN FRANCISCO WARRIORS), SEATTLE SUPERSONICS CORPORATION, TEXAS SPORTS INVESTMENTS, INC. (formerly SAN DIEGO BASKETBALL CLUB), BUFFALO BRAVES, INC., CLEVELAND PROFESSIONAL BASKETBALL COMPANY, PRO BASKETBALL, INC., NEW ORLEANS PROFESSIONAL BASKETBALL CLUB and AMERICAN BASKETBALL ASSOCIATION,

Defendants.

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CARTER, District Judge

O P I N I O N

The Relevant Facts

This Rule 23(b)(1) class litigation was instituted in April, 1970, on behalf of all present players in the National Basketball Association ("NBA") and all those who would become NBA players prior to final judgment. The complaint seeks the elimination of practices and procedures of the defendant NBA and its member clubs allegedly designed to prevent competition for players' services through the college draft, player allocation, reserve clause, and other such devises. An injunction against a merger of the NBA and the American Basketball Association ("ABA") is also sought.

Early in the history of the litigation, this court (Tenney, J.) issued a preliminary injunction barring any merger or non-competitive agreements between the two leagues for players' services. See order of May 4, 1970. The defendants unsuccessfully sought Congressional legislation to exempt the inter-league merger from the pinch of the federal antitrust laws. In August, 1973, Judge Tenney's broad proscription against merger negotiations between the NBA and ABA was amended to allow such discussions to go forward with the proviso, however, that

representatives of the plaintiffs had to be present at any such discussions involving the players' rights and any merger agreement reached could become operative only with court approval. See order of August 3, 1973.

Since that modified order was issued, the court has been involved in hearings, arguments, conferences, and in analysis of a massive amount of material submitted by the parties which have served to enlighten and familiarize the court with all facets of the complex issues involved in this litigation. Prosecution of a separate action by ABA against NBA in a district court in California was enjoined, and the action ordered consolidated with the instant action before the court. See order of March 22, 1974. The ABA Players Association, after their motion to intervene was denied (see endorsement of December 5, 1975), filed a separate lawsuit which is presently pending before the court. American Basketball Ass'n Players Ass'n v. National Basketball Ass'n, 75 Civ. 6184. Thus, during the pendency of this action, the court has gained some understanding of player-owner disputes in respect of the players' claims of antitrust violations in what is at present the entire professional basketball entity. The court has surveyed the claims of the parties in this case in several comprehensive opinions, 389 F.Supp. 867; 67 F.R.D. 691; see American Basketball Ass'n P.A. v. National Basketball Ass'n, 404 F.Supp. 832 (S.D.N.Y.

1975); opinion of Feb. 27, 1976, 5 CCH 1976-1 Trade Cas. ¶60,777 (1976); opinion of March 31, 1976, _____ F. Supp. _____, 5 CCH 1976-1 Trade Cas. ¶60,814 (1976), and in February, 1975, certified the action as a class action under Rule 23(b)(1), F.R.Civ.P., 389 F. Supp. at 896, et seq.

The February, 1975, determination just referred to was followed by extensive court-ordered activity in preparation for trial, first scheduled for May, 1976, and subsequently advanced to June, 1976. A burdensome discovery schedule was agreed upon by the parties in the effort to complete all discovery by the court-imposed cut-off date at the end of February, 1976. Between March, 1975, and January, 1976, the parties engaged in massive, far-reaching discovery. Approximately 200,000 documents were produced; some 143 persons were deposed; and 45,000 pages of testimony were transcribed. Counsel for the parties worked diligently and tirelessly in their effort to complete all discovery by the target date imposed by the court. The court was kept advised of the progress of discovery and was required to settle some disputes about the scope, course and nature of the pretrial discovery. See, e.g., order of Sept. 18, 1975; endorsements of October 31, 1975 and Nov. 12, 1975.

By January, all pretrial discovery was virtually completed. The basic supportive facts for each side's contentions had been fully disclosed, and the court's rulings on various pretrial motions had made clear to the parties that although the court had reached tentative legal conclusions based upon incomplete facts, a final determination could not be made until all the proof had been presented. See, e.g., 389 F. Supp. 867; 404 F. Supp. 832.

The plaintiffs and NBA defendants began serious settlement negotiations in January, 1976, in Philadelphia and New York. These discussions involved not only class counsel and counsel for NBA defendants, but members of an NBA negotiating committee, Lawrence Fleisher, general counsel for the NBA Players Association, a group representing named plaintiffs (Oscar Robertson, John Havlicek, and Jeffrey Mullins), and other members of the class (Paul Silas and James McMillian), all of whom participated in negotiating the terms that were finally agreed upon. On February 21, 1976, the settlement was unanimously approved in principle by the player representatives. On March 2, 1976, a letter was mailed to all members of the class outlining the terms of the settlement. On May 5, 1976, a detailed notice of settlement was mailed to all members of the class

informing them of how to obtain copies of the full agreement, and of how they could contest the settlement.

The settlement provides for the elimination of reserve compensation, a phaseout of the reserve clause, a settlement fund for the class of $4.3 million which provides for a weighted formula of distribution, decided upon by the Players Association based on the years a class member played in the NBA. In this formulation, the earlier years, 1966-70, are weighted more heavily than later years on the theory that after 1970, with the institution of this lawsuit, some of the challenged practices were modified and players' salaries generally rose. Moreover, the settlement provides for the payment by defendant NBA of the fees and disbursements of class counsel. Thus, the class will be able to share in the entire $4.3 million settlement fund provided for players without diminution in the payment of fees and expenditures disbursed by their counsel.

Of the 479 active and retired players in the class only three voiced any objection to the settlement. Two of them, Chester Walker and Wilt Chamberlain are among the original members of the class; Walker is a named plaintiff, and Chamberlain specifically authorized institution of the lawsuit. The Walker and Clifford Ray objections were filed on June 8th; and Chamberlain's on June 7th. No affidavit reciting any factual support for the objections was filed by any of the objectors.

Ray began a player career in NBA basketball in the 1971-72 season. In 1972-73, he signed a four-year plus option-year contract with Chicago. Before the 1974-75 season, he was traded to the "Golden State Warriors" and signed with that team a two-year, plus a one-year option, no-cut contract for $175,000. The two-year term of his contract has been completed and the one-year option (1976-77 season) is at hand.

Chester Walker played in the NBA from the 1962-63 through the 1974-75 seasons. Walker was the Chicago team player representative for the 1970 and 1971-72 seasons. In September, 1974, Walker signed a one-year plus one-year option contract with Chicago for $165,000. He played for Chicago in 1974-75, and in September, 1975, was tendered a contract for at least the $165,000 salary level for 1975-76. He and Chicago apparently could not settle their differences, and he has not played since.

Walker filed an antitrust action in Philadelphia in January, 1976. That action was enjoined by court order and memorandum dated February 26, 1976. On May 28, 1976, Walker unsuccessfully sought to have the hearing on the settlement agreement postponed from June 23, 1976 to permit discovery. The motion

was denied by endorsement dated June 16, 1976, because Walker has had access since 1970 to the entire file accumulated by plaintiffs' counsel; "much of the information [sought] is open to him in the Stipulation and Settlement Agreement" and the attached exhibits, id., p.2; and because it was evident that Walker had not availed himself of "what is virtually a storehouse of available discovery prior to" filing his motion.

Wilt Chamberlain's NBA playing career began in the 1959-60 season and he played until the end of the 1972-73 season. His last contract was a two-year contract calling for $430,000 in salary in 1971-72, and $450,000 in salary in 1972-73 plus forgiveness of a $67,000 loan, and a one-year option. In 1973, he was enjoined from signing a contract to play with an ABA team in 1973-74, his option year. In arbitration of the dispute, the arbitrator ruled in favor of the Los Angeles club which meant that Chamberlain either had to play for Los Angeles or sit out the option year. He chose to sit out the year.

Ray and Walker object to the certification of the class under Rule 23(b)(1), and argue that this is properly a Rule 23(b)(3) class. They claim that the settlement is inadequate and unfair since (1) the proposal modifies rather than completely eliminates

the college draft; (2) reserve compensation is not eliminated immediately; (3) a team by retaining a right of first refusal, has the opportunity to keep a player on its roster; and (4) the $4.3 million settlement fund for the players is insufficient, and its proposed allocation unfair. Wilt Chamberlain's objection is that the settlement's covenant not to sue provision may bar Chamberlain's damage claim pending in the Central District of California, in which further prosecution is enjoined pending disposition of this litigation.

At the settlement hearing on June 23, counsel for the three objectors presented their arguments. Counsel for Ray and Walker focused primarily on objections to Rule 23(b)(1) class certification and on the right of the objectors to have the court's determination of the settlement postponed to allow the objectors the opportunity for discovery on the bona fides of the settlement. Counsel for Chamberlain indicated that his concern was that the settlement might be a barrier to Chamberlain's suit against the NBA; he had no other objection to the settlement.

Walker was present and testified. The burden of his testimony was that he had been a player representative and therefore a named plaintiff during much of the history of this litigation; that he had been kept fully advised of the progress of the litigation, had received notice of the proposed settlement and its terms, and that he objected to the settlement personally.

Determination

1. Before evaluating the merits of the proposed settlement, the Walker and Ray opposition to the Rule 23(b)(1) class certification must be considered. The class was certified in an opinion filed on February 14, 1975, 389 F. Supp. 867. Notice that the class had been accorded Rule 23(b)(1) certification was mailed to all members of the class including Walker and Ray on September 19 and 22, 1975. The reasons for certifying the class as a Rule 23(b)(1) action were fully canvassed in that opinion (id. at 896-903), and need not be repeated here. No member of the class voiced any objections to such certification until June 8, 1976, when the issue surfaced in the Walker-Ray memorandum arguing against the proposed settlement. The contention that certifying the class under Rule 23(b)(1) rather than pursuant to Rule 23(b)(3) was in error does not controvert in

any way the merits of any of the terms of the proposed settlement, and comes too late to warrant a reconsideration of the merits of the class certification. No issue of due process is involved. All class members including Walker and Ray were kept fully informed of the progress of the litigation and the terms of the settlement. The objectors have appeared through counsel and in Walker's case, in person, to articulate their objections. All have had their day in court, and their rights, therefore, have been fully preserved. See Hansberry v. Lee, 311 U.S. 32, 42-43 (1940); American Employers' Insurance Co. v. King Resources Co., Civil No. 3908 (D. Colo., April 10, 1975). Accordingly, insofar as the objectors are moving to decertify the class under Rule 23(b)(1), the motion is denied.

2. In evaluating the terms of a proposal to settlement in a class action, the court must determine whether, taken as a whole, it is so unfair as to preclude judicial approval. Glicken v. Bradford, 35 F.R.D 144 (S.D.N.Y. 1964). While seeking to effectuate public policy favoring the voluntary out-of-court settlement by the parties of disputes in litigation, the court must be satisfied that the settlement fully protects the rights and interests of absent members of the class.

Feder v. Harrington, 58 F.R.D. 171 (S.D.N.Y. 1972); Zerkle v. Cleveland-Cliffs Iron Co., 52 F.R.D. 151 (S.D. N.Y. 1971). The settlement hearing is not "'a trial or a rehearsal of the trial'" Saylor v. Lindsley, 456 F. 2d 896, 904 (2d Cir. 1972), quoting, Haudek, , The Settlement and Dismissal of Stockholders' Actions--Part II: The Settlement, 23 Sw. L.J. 765, 771 (1969). The function of the court is to canvass the relevant factors necessary to render an informed judgment as to the fairness, reasonableness, wisdom and adequacy of the profferred termination of the action. West Virginia v. Chas. Pfizer & Co., 314 F. Supp. 710, 740 (S.D.N.Y. 1970), aff'd, 440 F. 2d 1079, 1086 (2d Cir. 1971), aff'd, 404 U.S. 548 (1972). It does not attempt to decide the merits of the controversy. Ibid.; United States v. v. Allegheny-Ludlum Industries, Inc., 517 F. 2d 826, 849 (5th Cir. 1975).

The case has been very hard fought. Extensive discovery in preparation for trial has been accomplished. The underlying legal issues have been fully briefed and argued and tentative determinations in respect to some of these issues have been made by the court. By the time negotiations for settlement began, each side had a clear grasp of all the facts supportive of the

opposing side's contentions. Each party was fully aware that the legal questions involved were highly complex. The plaintiffs contend that various NBA practices in re contracting for player services and according the exclusive right to contract for those services to particular clubs violate the federal anti-trust laws. Defendants assert the lawfulness of these practices and contend that they have become fixtures in the NBA through the collective bargaining process and are hence exempt from the reach of the antitrust laws. Both parties express confidence that the facts fully support their respective positions, but both recognize that the risks are great and that each could lose much if the matter proceeds to trial.

There are risks to the class of establishing liability absent a convincing showing that the disputed practices constitute a per se violation of the Sherman Act. See Klor's, Inc. v. Broadway-Hale Stores, Inc., 359 U.S. 207 (1959); United States v. Sealy, Inc., 388 U.S. 350 (1967). Even, however, assuming that such liability is established, the outcome of Kapp v. National Football League, C-72-537 (W.D. Calif. jury verdict on April 2, 1976), where a jury refused to award damages to plaintiff Kapp after the court had ruled that certain practices of the NFL were illegal as a matter of law,

strongly suggests that there is no certainty that plaintiffs will succeed on their damage claims.

Under the settlement, a fund of 4.3 million dollars is to be divided among the members of the class, and the NBA has undertaken to pay what is roughly one million dollars in fees and disbursements to class counsel. Ordinarily class counsel's fees and expenses are paid out of the settlement fund or by assessment of members of the class. Thus, the settlement fund is actually more than 5 million dollars. While the NBA appears to be in sound financial condition, the payroll consumes a considerable portion of the income of each member club. The economic hazards of member clubs making a profit are underscored by the fate of the American Basketball Association, the NBA's rival league. That league has folded and only four of its teams, now in agreement to be merged with the NBA, are viable franchises. Under the circumstances, the financial aspects of the settlement seem a reasonable exaction from defendants for the price of peace. When the risk to the class attendant upon establishing liability and convincing a jury that professional basketball players, who are currently earning extremely high salaries, should be awarded money damages from the NBA, a 5 million dollar settlement fund seems certainly a reasonable compromise which the class can

accept as a wise alternative to the risks of a trial on the merits. See City of Detroit v. Grinnell Corp., 495 F. 2d 448, 463 (2d Cir. 1974).

The settlement effectuates a radical modification of the disputed practices in respect of the college draft and options for future services. In addition, there will be a phasing out of the reserve compensation rules, arbitration of disputes, a covenant by the class not to sue, appointment of a Special Master to supervise and enforce the settlement agreement, and retention of jurisdiction by the court to assert final authority in the enforcement of the settlement terms. 1/ These terms come to grips

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1/ After the hearing on the proposed settlement of this case, but before final approval by the court, a dispute arose between the players and the NBA concerning the proper interpretation of some of the terms of the settlement. A letter agreement, a copy of which is on file with the court, was drafted by the parties reflecting an interpretation of these terms that is mutually satisfactory and which coincides with the court's understanding of the demands of the antitrust laws. As set forth in the agreement and clarified by the letter of understanding dated July 26, 1976, between 1976 and 1986, rookies subject to the college draft, under ordinary circumstances, become subject to exclusive right of negotiations of the drafting club only if by September 15, following the initial draft, they have been tendered: (1) a contract of one year at least at the applicable minimum salary, with a one-year option of renewal at the same salary, or (2) a four-year contract

(Footnote continued)

with plaintiffs' objections enumerated in the lawsuit, while at the same time seeking to accommodate defendants' contentions that some restrictions or restraints are essential for the survival of the NBA as a viable organization able to field teams that offer truly competitive sports exhibitions.

The settlement avoids a trial of uncertain duration, but it is clear that the trial would be lengthy. A trial limited to the question of liability would consume two months at a minimum. The length of the damage phase of the trial in which each of the 479 members of the class would have to establish the extent to which he

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(Footnote continued from previous page)

of $375,000 over the term, with $120,000 guaranteed, or (3) a five-year contract of $500,000 with $165,000 guaranteed. If the club does not make such a required tender by September 15th following a draft, the player is a free agent and can negotiate with any team. If such a tender is made, the player must sign with the club on whatever terms he can arrange or sit out for one year. A rookie who sits out for one year is subject to draft a second time. A rookie who elects to sit out two seasons becomes a free agent.

(End of Footnote)

had been damaged is difficult to estimate, but I am confident that that phase of the case would continue far in excess of two months of trial time.

Of the 479 members of the class only three objections against the settlement have been filed. The manner in which the settlement was reached--by arm's length negotiations in which a representative group of class members actively participated--and the care taken throughout the history of this litigation to keep all members of the class fully apprised of developments, insured that all class members understood what class counsel was doing, and enabled each member of the class to make an intelligent assessment of the merits of the compromise proposed. Based on these facts, the court can confidently conclude that the filing of only three objections is an unquestionable indication of almost unanimous support for the proposal from members of the class.

Chamberlain does not object to the settlement as long as his rights to continue his litigation remain unaffected by the class covenant not to sue. Determination of that question is dependent upon the nature of the Chamberlain lawsuit and the extent to which it raises issues distinct and apart from those presented

in this litigation. See opinion of March 31, 1976, ____ F. Supp. ____, 5 CCH 1976-1 Trade Cas. ¶60 814. Resolution of that question may require a full hearing and consideration. On the basis of the facts before the court at the time Chamberlain was enjoined from proceeding further with his lawsuit in California, it was held that the Chamberlain litigation tracked the claims raised in the instant case. Id. In any event, this court will give Chamberlain a full opportunity to show that his claims are not so related, and insofar as a convincing showing to that effect is made, he will be entitled to pursue his litigation independently.

The objections of Ray and Walker that the settlement cannot be approved until they have been given an opportunity for discovery on the merits of the settlement are misplaced. The status of discovery is a factor which the court must take into account in evaluating a class settlement proposal. The discovery referred to in the cases, however, is the extent to which discovery has been obtained so that the court and class counsel are in position to make a rational and informed evaluation of the complexity, expense, likely duration of the trial, the probability of success in a trial on the merits and the reasonable-

ness of the settlement in light of those attendant risks. See City of Detroit v. Grinnell, supra; Newman v. Stein, 464 F. 2d 689 (2d Cir.), cert. denied, 409 U.S. 1039 (1972). There is no requirement that every objector be allowed to have discovery concerning the settlement itself so that he can personally assure its reasonableness. Such a course would mean that few settlements would be approved, since each member of the class would have the right to keep it open until satisfied as to its bona fides. In this connection, a quote from Judge Moore's opinion in City of Detroit v. Grinnell Corp., supra, at 464 is particularly apposite:

> "To allow the objectors to disrupt the settlement on the basis of nothing more than their unsupported suppositions would completely thwart the settlement process. On their theory no class action would ever be settled, so long as there was at least a single lawyer around who would like to replace counsel for the class and start the case anew. To permit the objectors to manipulate the distribution of the burden of proof to achieve such an end would be to permit too much."

See, Saylor, v. Lindsley, supra.

Walker and Ray object to the method of distribution on the ground that as higher salaried players their share should exceed that of a player making less than they. There has been no indication during the course of the suit that the higher-salaried players have been more severely

injured. Moreover, the method adopted seems a more democratic and a more equitable division among members of the class.

The remaining objections have been adequately disposed of in the discussions of the factors warranting court approval of the proposed disposition of this litigation. The proposed settlement constitutes a negotiated compromise which fairly seeks to protect the interests of both the players and the club owners. It should make for an era of peace and stability in professional basketball for many years to come.

Accordingly, the settlement is approved.

It is SO ORDERED.

Dated: New York, New York
July 30, 1976

ROBERT L. CARTER
U.S.D.J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSCAR ROBERTSON, et al.,

Plaintiffs,

-against-

NATIONAL BASKETBALL ASSOCIATION, et al.,

Defendants.

70 Civ. 1526 (RLC)

CONSENT JUDGMENT

AMERICAN BASKETBALL ASSOCIATION, et al.,

Cross-claimants,

-against-

NATIONAL BASKETBALL ASSOCIATION, et al.

Cross-defendants.

THE SPIRITS OF ST. LOUIS BASKETBALL CLUB, L.P. (formerly referred to as The Munchak Corp.),

Cross-claimant,

-against-

NATIONAL BASKETBALL ASSOCIATION, a joint venture; CALIFORNIA SPORTS INCORPORATED, a California corp.; LEMAT CORPORATION, a Delaware corporation, the general partner of a limited partnership, dba Golden State Warriors; PRO BASKETBALL, INC., an Oregon corporation; SEATTLE SUPERSONICS CORPORATION, a Washington corporation; FIRST NORTHWEST INDUSTRIES OF AMERICA, INC., a Washington corporation; PHOENIX PROFESSIONAL BASKETBALL CLUB, a limited partnership; MILWAUKEE PROFESSIONAL SPORTS AND SERVICES, INC., a Wisconsin corporation; THE CHICAGO PROFESSIONAL BASKETBALL CORPORATION, an Illinois corporation; KINGS PROFESSIONAL BASKETBALL, INC., a Missouri corporation; BOSTON CELTICS BASKETBALL CLUB, INC., a Massachusetts corporation; MADISON SQUARE GARDEN CORP., and MADISON SQUARE GARDEN CENTER, INC., a New York corporation; BUFFALO BRAVES, INC., a New York corporation; DETROIT PISTONS BASKETBALL CLUB, a limited partnership; CAPITAL BULLETS BASKETBALL CLUB, INC., a Maryland corporation; ATLANTA HAWKS BASKETBALL, INC., a Georgia corporation; TEXAS SPORTS INVESTMENT, INC., a Texas corporation; CLEVELAND PROFESSIONAL BASKETBALL COMPANY, an Ohio corporation; NEW ORLEANS PROFESSIONAL BASKETBALL CLUB, a general partnership;

AMERICAN BASKETBALL ASSOCIATION, a Delaware corporation; DENVER NUGGETS BASKETBALL CLUB (successor in interest to DENVER ROCKETS BASKETBALL, LTD.), a general partnership; INDIANA PROFESSIONAL SPORTS, INC., an Indiana corporation; LONG ISLAND SPORTS ENTERPRISES, INC., a New York corporation; and PROFESSIONAL SPORTS, LTD., a partnership,

Cross-defendants.

There having been executed a Stipulation and Settlement Agreement, dated as of July 26, 1976, a copy of which is annexed, providing for settlement of the claims contained in the Amended Cross-Claim of the Spirits of St. Louis Basketball Club, L.P. upon the terms and conditions set forth therein;

NOW, THEREFORE, without trial or final adjudication of any issue of fact or law herein and upon consent of the parties it is

ORDERED, ADJUDGED and DECREED that leave to serve the Amended Cross-Claim of the Spirits of St. Louis Basketball Club, L.P. is hereby granted; and it is further

ORDERED, ADJUDGED and DECREED that the terms of the Stipulation and Settlement Agreement are incorporated into and made part of this Order and Judgment; and it is further

ORDERED, ADJUDGED and DECREED, that pursuant to Rule 54(b) FRCP, the Amended Cross-Claim of the Spirits of St. Louis Basketball Club, L.P. be, and the same hereby is dismissed against all parties, with prejudice and without costs, disbursements or attorneys' fees; and it is further

ORDERED, ADJUDGED and DECREED, that in accordance with the terms of the Stipulation and Settlement Agreement this Court retains exclusive jurisdiction to enforce the terms of this Judgment and of the July 26, 1976 Stipulation and Settlement Agreement.

Dated: July 30, 1976

New York, New York

MEC

AMERICAN BASKETBALL ASSOCIATION, a Delaware corporation; DENVER NUGGETS BASKETBALL CLUB (successor in interest to DENVER ROCKETS BASKETBALL, LTD.), a general partnership; INDIANA PROFESSIONAL SPORTS, INC., an Indiana corporation; LONG ISLAND SPORTS ENTERPRISES, INC., A New York corporation; and PROFESSIONAL SPORTS, LTD., a partnership,

Cross-defendants.

The parties hereto, being all of the parties against whom the Spirits have asserted additional cross-claims, hereby consent to the entry of a Judgment in this action, a copy of which is annexed hereto.

PROSKAUER ROSE GOETZ & MENDELSOHN
for NATIONAL BASKETBALL ASSOCIATION
and its Member Teams

By: _____

SCHUPAK, ROSENFELD & FISCHBEIN
for SPIRITS OF ST. LOUIS BASKETBALL CLUB,I

By: _____

SPENGLER, CARLSON, GUBAR & CHURCHILL
for DENVER NUGGETS BASKETBALL CLUB
(successor in interest to DENVER ROCKETS BASKETBALL, LTD.), a general partnership; INDIANA PROFESSIONAL SPORTS, INC., an Indiana corporation; LONG ISLAND SPORTS ENTERPRISES, INC., a New York corporation; and PROFESSIONAL SPORTS, LTD., a partnership

By: _____

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MICHAEL GOLDBERG
for AMERICAN BASKETBALL ASSOCIATION

AGREEMENT

THIS AGREEMENT made as of the 26th day of July, 1976, by and between the SPIRITS OF ST. LOUIS BASKETBALL CLUB, L.P. (the "Spirits"), the AMERICAN BASKETBALL ASSOCIATION (the "ABA"), the DENVER NUGGETS, INC. (successor in interest to the DENVER NUGGETS BASKETBALL CLUB, successor in interest to DENVER ROCKETS BASKETBALL CLUB, LTD., the "Nuggets"), ARENA SPORTS, INC. (successor in interest to INDIANA PROFESSIONAL SPORTS, INC., the "Pacers"), LONG ISLAND SPORTS (a limited partnership) (the "Nets"), and SAN ANTONIO BASKETBALL, LTD., a Texas Limited Partnership, (successor in interest to PROFESSIONAL SPORTS, LTD., the "Spurs"), (the Nuggets, Pacers, Nets and Spurs are hereinafter collectively referred to as the "Expansion Teams").

WHEREAS, there is presently pending an action in the United States District Court for the Southern District of New York styled ABA Players Association et al. v. NBA et al., 75 Civ. 6184 (RLC) (hereinafter referred to as "Players Action"); and

WHEREAS, the parties to the Players Action have entered into a Stipulation and Settlement Agreement (hereinafter the "Stipulation and Settlement Agreement"), which they propose to present forthwith to the United States District Court for the Southern District of New York for the purpose of obtaining preliminary court approval of the terms thereof; and

WHEREAS, the Stipulation and Settlement Agreement recites that:

> [T]he inability of the American Basketball Association ("ABA") and its members to attract sufficient investors, capital and other financial resources has increased the probability that the ABA will be unable to continue its operations as an independent professional basketball league;and. . . the failure of the ABA to continue its operations as an independent professional basketball league would result in the loss of jobs and job opportunities. . ., jeopardize the ability of Class Members to receive benefits owing to them as a result of past services rendered by them to ABA members, and generally cause chactic and unsettled conditions in professional basketball; and . . . the expansion of the NBA by admission of the ABA Team(s) would enable said ABA members to continue their operations, maintain employment opportunities . . . and enable those ABA members to make certain financial commitments which they are presently unable to make;and

WHEREAS, the Spirits have agreed to assign their Player Contracts (hereinafter defined) for the purpose of enabling the Dispersal Draft contemplated and required by the Stipulation and Settlement Agreement, and the Expansion Teams have agreed to assume and pay any obligations which the Spirits may have to its players for deferred compensation under Player Contracts as well as being responsible for salaries of the Spirits players after July 15, 1976, as hereinafter set forth; and

WHEREAS, there is presently pending a cross-claim by the Spirits against the National Basketball Association ("NBA"), and a motion for leave to file an amended cross-claim by the Spirits against the ABA, the Expansion Teams and the NBA in the Lawsuit (hereinafter defined)alleging inter alia that the cross-claim defendants therein, in violation of the antitrust laws of the United States and in breach of contract, damaged and

destroyed the good will and investment of the Spirits; and

WHEREAS, it appearing that the injunctive relief prayed for in the amended cross-claim would not likely restore the damaged good-will of the Spirits; and

WHEREAS, the Spirits and the Expansion Teams anticipate that if the amended cross-claim were not settled, discovery in and a trial of the amended cross-claim could extend over many months and final resolution of the issues raised therein might not occur for several years thereafter; and

WHEREAS, the Spirits and the Expansion Teams wish to put to rest all controversy and to compromise, settle and terminate the amended cross-claim, without the admission by the Expansion Teams of any liability thereunder; and

WHEREAS, the Expansion Teams have requested the Spirits to discontinue its cross-claim and amended cross-claim against the NBA and its member teams and to execute and deliver a release and covenant not to sue to the NBA; and

WHEREAS, the Spirits have agreed to assign its ABA franchise to the Expansion Teams in order to provide the Expansion Teams an opportunity to obtain admission to the NBA as contemplated and required by Section 3(a) of the Stipulation and Settlement Agreement;

NOW, THEREFORE, in consideration of the covenants herein contained and for other valuable considerations, the parties agree as follows:

1. DEFINITIONS AND TERMS

1.1. T.V. Revenues

T.V. Revenues shall mean revenue earned from the sale, license, etc., by the NBA (as opposed to arrangements made by individual franchises) of rights to NBA games for visual media broadcast such as T.V., Cable T.V., Pay T.V., Closed Circuit Broadcast, and the like or broadcast by the NBA or affiliates, less deductions made by the NBA therefrom for "direct expenses" incurred by it or its affiliates in connection with the production of such revenues (indirect expenses including, but not by way of limitation, charges for administration and overhead made by the NBA or affiliates shall not be construed "direct expenses"). It is the intention of this definition to include all broadcasts of the type now commonly referred to as "Network Contracts." In the

event there is a dispute at any time between the parties as to whether or not media revenue contracted for or received in the future falls within this definition of T.V. Revenues in the event of a change in form or style of such contracts, or as to whether or not deductions made from such revenues were appropriately deducted as "direct expenses" as permitted or contemplated herein, any such dispute shall be submitted to arbitration before the American Arbitration Association in New York City before three (3) arbitrators in accordance with its rules then appertaining; the panel of three arbitrators shall be chosen from the lists of prospective arbitrators submitted to the parties by the American Arbitration Association. It is the intent of this definition to assure that the Spirits' share of T.V. Revenues as hereinafter provided be paid to it notwithstanding changes by the NBA in the form or style of contracting for or broadcasting NBA games on behalf of and for the benefit of its members.

1.2 Dispersal Draft

Dispersal Draft shall mean the procedure defined and described in Section 3B of the Stipulation and Settlement Agreement (hereinafter defined).

1.3 Intentionally Omitted

1.4 Lawsuit

Lawsuit is the action pending in the United States District Court for the Southern District of New York styled Robertson et al. v. NBA et al., 70 Civ. 1526 (RLC).

1.5 Expansion Agreement

Expansion Agreement refers, collectively, to the agreements between the NBA, the NBA member teams and each Expansion Team, copies of which, as signed, have been delivered to Spirits.

1.6 Player Contracts

Player Contracts are those contracts between the Spirits and certain professional basketball players referred to in Schedule I attached hereto and made a part hereof.

1.7 Stipulation and Settlement Agreement

The Stipulation and Settlement Agreement is the proposed Stipulation and Settlement Agreement of the Player's Action which will be submitted to the Court for preliminary and final approval immediately following execution thereof. A copy of the Stipulation and Settlement Agreement, as signed, has been delivered to Spirits.

2. SETTLEMENT OF SPIRITS AMENDED CROSS-CLAIM

2.1 The Expansion Teams in order to compensate the Spirit for its loss of good will and investment (but without admitting liability) hereby agree to pay the Spirits Two Million Two Hundred Thir Thousand Nine Hundred Ninety ($2,230,990) Dollars which shall be pai to the Spirits by the Expansion Teams as follows:

A. $302,990 upon execution hereof.

B. $228,000 on September 14, 1976.

C. $750,000 at the earlier of October 15, 1976 (or the Closing Date as defined in the Expansion Agreement or an extended Closing Date relating to entry into the NBA for the 1976-77 season), or the earlier of five (5) days following entry of a final order by the District Court in the Lawsuit approving the transactions contemplated by Expansion Agreement and/or approving the Stipulation and Settlement Agreement or entry of all or any of the Expansion Teams into the NBA.

D. $400,000 at the earlier of September 30,1977 or thirteen (13) months from the date of the Dispersal Draft.

E. $350,000 at the earlier of September 30, 1978 or twenty-five (25) months from the date of the Dispersal Draft.

F. $200,000 at the earlier of September 30, 1979 or thirty-seven (37) months from the date of the Dispersal Draft.

2.2 Each payment required by subparagraphs D through F of Section 2.1 above shall be evidenced by a negotiable promissory note and the payment required by subparagraph C of Section 2.1 above shall be evidenced by a negotiable promissory note in the amount of $500,000 and a non-negotiable promissory note in the amount of $250,00 respectively (hereinafter "Team Note" or collectively "Team Notes") each executed by each of the Expansion Teams as primary obligors; howe

each Expansion Team's liability with respect to each of the Team Notes shall be limited as hereinafter provided in Section 11. Each Team Note shall bear interest at the rate of 7-1/2% per annum from the date of the Dispersal Draft or August 1, 1976, whichever is earlier, through its due date. Interest sh ll not be paid currently however, but shall be accrued; interest shall be compounded annually and all such interest shall be paid September 1, 1980. In the event any of the foregoing notes are not paid in full when due, interest from the due date until payment of the principal amount thereof is made in full shall be computed and payable at the rate of eleven per cent (11%) per annum. The Team Notes shall be in the form as set forth in Exhibit A1 hereof.

2.3 The payment required to be made pursuant to Section 2.1B shall be evidenced by a Promissory Note ("Short Term Note") which shall be executed and delivered in the same manner as the notes relating to the payments required under subparagraphs C through F; the Short Term Note shall not bear interest from the date it is made through its due date but if not paid in full on the due date, interest shall be charged at the rate of eleven per cent (11%) per annum from the due date until the principal amount thereof is paid in full. The form of the Short Term Note shall be as set forth in Exhibit A2 hereof.

2.4 In the event the principal amount of the Short Term Note or any Team Note is not paid in full when due and said default continues for a period of ten (10) days following written notice of said default to each Expansion Team, the entire outstanding balance of all Team Notes whether or not then otherwise due, together with accrued interest thereon, shall become immediately due and payable at the election of the Spirits or any holder of any such note. The Short Term Note shall be executed and delivered to the Spirits upon the execution hereof. The Team Notes shall be executed and delivered to Schupak Rosenfeld & Fischbein (the "Pledge Agent") in accordance with the terms of a Pledge Agreement executed simultaneously herewith.

2.5A. The Spirits shall not be obligated hereunder until it shall have received an acknowledgement from the NBA in the form annexed hereto as Exhibit B1 and Exhibit B2.

B. The Expansion Teams hereby assign to the Spirits, as collateral security for payment of their obligations to the Spirits under this Section 2, (i) all of their right, title and interest in and to the Dispersal Draft Fund as defined in Section 3B(4) of the Stipulation and Settlement Agreement, with respect to payments made to the Dispersal Draft Fund on or before June 1, 1977 and (ii) all of their right, title and interest in and to only that portion of the Dispersal Draft Fund with respect to payments made to the Dispersal Draft Fund after June 1, 1977 which have not been previously assigned by agreement with the Kentucky Colonels, Ltd. and Kentucky Sports, Inc. which assignment the Spirits hereby acknowledge.

C. As additional collateral security for payment of their obligations to the Spirits under this Section 2, the Expansion Teams hereby grant and convey and assign the Spirits each Expansion Team's share of T.V. Revenues to the extent they may exceed the amount assigned to the Spirits under Section 3 hereof, and hereby direct the NBA to pay out of any such T.V. Revenues an amount, directly to the Spirits, as and when received by the NBA, equal to the unpaid and past due principal and/or interest due under any Team Note or the Short Term Note.

The limitation of joint liability set forth in Section 11 of this Agreement shall not affect or diminish the Spirits' rights under this Section 2.5C and the assignment by each Expansion Team of it's T.V. Revenues shall remain in full force and effect and such assigned T.V. Revenues shall be paid to the Spirits until such time as all of the Expansion Teams' obligations to the Spirits as set forth in this Section 2 have been paid in full, whether or not one, two, three or four of the Expansion Teams obtain a franchise in and join the NBA.

2.6 Any and all payments required under this Section 2 shall be made by certified or Bank Cashier's check.

3. ASSIGNMENT OF FRANCHISE

3.1 The Spirits hereby assign their ABA franchise to the Expansion Teams for the following consideration:

A. The Expansion Teams hereby irrevocably and unconditionally direct the NBA to pay directly to the Spirits or its successo

or assigns their interest in T.V. Revenues equal in the aggregate to one-seventh (1/7th) of four twenty-seconds (4/22nds) of the T.V. Revenues earned by the NBA commencing with the first day on which the Expansion Teams are entitled to share in T.V. Revenues under the terms of the Expansion Agreement (such interest to exclude, however, any portion of the T.V. Revenues which the Expansion Agreement provides may not be shared by the Expansion Teams), and continuing for that period of time provided in SEction 3.2(i) hereof. Notwithstanding the foregoing, in the event there are in the future more than twenty-two (22) NBA teams, -he Spirits shall be entitled to a proportionately smaller share of T.V. Revenues (e.g. twenty-four (24) teams = 1/7 x 4/24), provided however that the Spirits in no event and under no circumstances shall be entitled to or be paid less than 1/7th of 4/28th of the T.V. Revenues, except as the parties may otherwise agree to in writing.

B. The Expansion Teams represent and warrant that they have not conveyed, assigned or transferred any interest in or to T.V. Revenues to any other party which would create an interest in or to T.V. Revenues in any other such party to which the Spirits' right to receive T.V. Revenues hereunder would be subordinate. Each Expansion Team covenants and warrants that it will not transfer, assign or sell its franchise, in any form or manner whatsoever unless the prospective transferee, assignee, or purchaser has been advised of the terms of this Agreement and agrees in writing to be bound by the terms hereof.

3.2(i). The Spirits' right to receive T.V. Revenues hereunder and its other rights set forth in this Section 3 shall continue for so long as the NBA or its successors or assigns continues in existence, and shall be an obligation that runs with the NBA franchise owned by each Expansion Team whether or not: there are changes in ownership of any Expansion Team or its franchise; there is a change or changes in the form of ownership of any such franchise; any of said franchises are relocated; there are technical changes in the existence or status of the franchise such as reissuance, swap, expiration and renewal, etc.; none of which occurrences or events shall have the effect of altering or diminishing the Spirits' rights hereunder.

(ii) In the event the Expansion Agreement is terminated and thereafter any or all of the Expansion Teams become members of the NBA in the 1977 - 1978 season, any such (or in the event more than one Expansion Team qualifies hereunder, each such) Expansion Team which so participates in the 1977 - 1978 basketball season as a member of the NBA, shall and hereby irrevocably and unconditionally directs the NBA to pay directly to the Spirits or its successors or assigns their interest in T.V. Revenues equal in the aggregate to one-seventh (1/7th) of one twenty-second (1/22nd) of the T.V. Revenues earned by the NBA commencing with the first day of the third season in which any such Expansion Team is entitled to share in T.V. REvenues under the terms of its agreement with the NBA, and continuing for that

period of time provided in Section 3.2(i) hereof (such interest to exclude, however, any portion of the T.V. Revenues to which the Expansion Team is not entitled to share under the terms of its agreement with the NBA). In the event there are in the future more than twenty-two (22) NBA teams, the Spirits shall be entitled to a proportionately sma-ler share of T.V. Revenues (e.g. twenty-four (24) teams = 1/7 x 1/24), provided however that the Spirits in no event and under no circumstances shall be entitled to or be paid less than 1/7th of 1/28th of the T.V. Revenues, except as the parties may otherwise agree in writing. Notwithstanding the foregoing, only Expansion Teams which become NBA members as aforesaid on terms substantially similar to the terms of the Expansion Agreement shall be obliged under this Section 3.2(ii). In determining whether or not Expansion Teams which may become NBA members as aforesaid obtained their NBA franchises on terms "substantially similar to the terms of the Expansion Agreement" the principal criteria to be applied shall be whether or not such team became a member of the NBA with its then roster of players (as opposed to what is generally known as expansion team -- that is, a team that obtains its roster through an "expansion draft"); and the amount required to be paid to the NBA in order to obtain its NBA franchise and the terms of payment of such amount.

In the event of a dispute as to whether or not an Expansion Team may be obligated to direct the NBA to pay a share of T.V. Revenues to the Spirits hereunder, the dispute shall be

submitted to arbitration under the same conditions provided for arbitration in Section 1.1 hereof. The arbitrators shall not be restricted in determining their award to deciding only whether or not an Expansion Team may be obligated as herein provided, but may determine that the Expansion Team is obligated hereunder, but for a different share of T.V. Revenues than set forth herein.

3.3 Notwithstanding Sections 3.1 and 3.2 above, the NBA shall be entitled to hold the first revenues due the Spirits under the foregoing assignment and conveyance in an amount equal to deferred salary obligations of the Spirits under Player Contracts representing accrued deferred salary earned through the end of the 1975 - 1976 basketball season, for and on behalf of, and as collateral security for the benefit of and securing payment of said deferred salary obligations to the respective players. The Spirits represent and warrant that the amount of its deferred salary obligations payable to players are as set forth on Exhibit A to Schedule II. Upon receipt by the NBA of reasonable evidence that any or all of said deferred salary obligations of the Spirits have been satisfied, the foregoing security interest shall proportionately abate, and the amount so satisfied shall be paid to the Spirits, if then held by the NBA.

4. THE MUNCHAK INDEMNITY

The ABA and the Expansion Teams shall not later than August 6, 1976, deliver to the Spirits a release duly executed by Theodore J. Munchak in the form of Exhibit C hereof. The ABA and the Expansion Teams shall and do hereby indemnify and hold the Spirits and its partners harmless for any and all obligations, liabilities or commitments relating to or arising out of any claims made by Theodore Munchak or any corporation or business entity in which he is or has been a principal, and/or any assignee of any such claims in connection with the acquisition by the Spirits of its ABA franchise, including the reasonable cost of defending any litigation commenced against the Spirits, or any of its partners relating thereto.

5. LONNIE SHELTON MATTER

The Spirits agree to a dismissal of a lawsuit now pending in the United States District Court for the Eastern District of Missouri, styled Lonnie Shelton v. The Spirits et al. (the"Shelton Action") with prejudice. Upon execution and delivery of a general release by Shelton and Arthur Morse and Ralph Miller to the Spirits and all of its partners, the ABA and the four Expansion Teams, the Spirits shall execute and deliver a general release to Shelton, Morse and Miller. Subject to receipt of the releases

required by Shelton, Morse and Miller and subject to dismissal of the Shelton Action, with prejudice, the Spirits hereby waive its right to enforce thereafter its contract with Shelton.

6. DEFERRED PAYMENT OBLIGATIONS TO PLAYERS

The ABA and the Expansion Teams hereby assume and agree to pay any obligations which the Spirits may have to any of its players for deferred compensation earned under Player Contracts subsequent to the end of the 1975/76 basketball season. All deferred compensation earned by Spirits' players through the 1975/76 basketball season as more particularly described in Section 3.3 hereof and Exhibit A to Schedule II hereto shall be paid by the Spirits when due.

7. JOE CALDWELL LITIGATION

The Spirits shall and do hereby hold the ABA, the Expansion Teams, Theodore J. Munchak and any corporation or any business entity of which he is or was a principal harmless and shall indemnify them or any of them from any costs, damages, or expenses relating to claims made by Joe Caldwell in litigation arising out of or in connection with the Spirits' alleged failure to pay his salary for the 1974/75 basketball season. The ABA and the Expansion Teams hereby irrevocably authorize the Spirits to undertake defense of any such action or claim on their behalf with counsel to be selected and paid by the

Spirits. The foregoing indemnity shall be in the form annexed as Exhibit D.

8. INDEMNIFICATION

The Expansion Teams and the ABA shall and do hereby indemnify and agree to hold the Spirits and its partners harmless from and against any and all costs, damages and expenses including but not limited to court costs, judgment(s) and reasonable attorney's fees arising out of or in connection with any claim, suit or other matter whatsoever related to the business of professional basketball or activities engaged in by the Spirits or its partners relating to professional basketball. The foregoing indemnity shall not apply with respect to claims or suits for matters arising out of the day-to-day business operations of the Spirits such as player and other personnel matters not assumed by the Expansion Teams hereunder, costs of printing tickets, salaries of office employees and general trade creditors and the like, or to claims not related to the business of or activities engaged in by the Spirits or its partners relating to professional basketball. Without limiting the generality of the foregoing, the foregoing indemnity shall apply to the claims and suits listed in Schedule III hereto, and to claims or suits against the Spirits or any of its partners relating to failure of the Expansion Teams or any of their assignees to perform any or all obligations under Player Contracts required to be performed under this Agreement. The Spirits hereby agree promptly to notify each of the Expansion Teams of the occurrence of any such claims or suit and agree to cooperate in the defense thereof. The Spirits hereby authorize the ABA and the Expansion Teams to undertake defense of any such claims, suits

actions on its behalf; the ABA and the Expansion Teams shall select counsel of their choice whom they shall pay. During the pendency of any such acts, the ABA and the Expansion Teams shall keep the Spirits apprised of all proceedings. The Spirits may appoint counsel to review all such proceedings at its own cost, in which case its counsel shall be kept informed of all proceedings as reasonably requested. Further the Expansion Teams shall and do hereby indemnify and agree to hold the Spirits and its partners harmless from and against any and all costs, losses, damages and expenses arising out of or in connection with or proximately resulting from breach by the Expansion Teams or any of them of any representation, warranty or covenant made by them or any of them in this Agreement, or in any agreement executed in connection herewith. The Spirits shall and do hereby indemnify and agree to hold the Expansion Teams harmless from and against any and all costs, losses, damages and expenses arising out of or in connection with or proximately resulting from breach by the Spirits of any representation, warranty or covenant made by them in this Agreement, or in any agreement executed in connection herewith.

9. PLAYER PAYROLL

The Spirits acknowledge that they are responsible for payment of salaries of its players, excepting Barry Parkhill ("Parkhill"), through July 15, 1976 and the Expansion Teams acknowledge and agree that they or their assignees shall be responsible for salaries of the Spirits players from and after July 15, 1976. With

respect to Parkhill, the Spirits shall only be responsible to pay that unpaid portion of Parkhill's salary relating to the 1975/1976 basketball season as equals the difference, if any, between the amount paid by the Spirits to Parkhill and/or the New Virginia Squires and $25,000, the amount which the Spirits were obliged to pay toward Parkhill's 1975/1976 salary under the terms of its agreement with the New Virginia Squires. The balance, if any, of Parkhill's salary unpaid by the New Virginia Squires for the 1975/1976 basketball season and thereafter shall be the responsibility of and paid by the Expansion Teams.

10. ASSIGNMENT OF PLAYER CONTRACTS

The Spirits shall assign and convey to the Expansion Teams in the form of Exhibit E hereof all right, title and interest it may have in and to their Player Contracts, for and in consideration of the obligations of the Expansion Teams under sections 6 and 9 hereof.

11. JOINT AND SEVERAL LIABILITY OF EXPANSION TEAMS

Except as otherwise provided herein, the Expansion Teams shall be jointly and severally liable for all obligations to the Spirits as provided hereunder except that no Expansion Team shall be required to satisfy such liability in an amount that exceed 200% of a one-quarter share of such joint liability.

12. CONSENT TO EXPANSION; RELEASE

Upon performance by the ABA and Expansion Teams of all of their obligations and commitments to the Spirits to be performed prior to or contemporaneously with the execution

ereof and upon the delivery of the release as required under Section 4 hereof, the Spirits waive all rights they may have to object to withdrawal of the Expansion Teams from the ABA and/or joining the NBA and/or subsequent to the Final Date as defined in the Stipulation and Settlement Agreement, dissolution of the ABA. Neither the Spirits nor any of its partners shall file, participate in or effectuate the filing of any litigation, including litigation under the antitrust laws, seeking either (a) to enjoin, stay, delay or otherwise inhibit the consummation of the transactions contemplated by the Expansion Agreement or (b) seeking damages with respe : to the transactions contemplated by the Expansion Agreement.

It is the essence of this Agreement that the Spirits and its partners will cooperate with the efforts of the Expansion Teams to gain entry into the NBA and the Spirits hereby agree to cooperate with the Expansion Teams' efforts in that regard.

Upon the execution of this Agreement the Spirits and Expansion Teams will execute and deliver general releases each releasing the other and, in the case of the Spirits the ABA, from any and all claims, demands and causes of action which the Spirits or any of its partners may have against the Expansion Teams and which the Expansion Teams, their officers, directors and partners, as the case may be, may have against the Spirits and its partners, as of the date hereof except, in each case, for claims, demands and causes of action arising out of or in connection with this Agreement or any of the other agreements and documents executed in connection herewith.

The parties hereby agree not to disclose the terms of this Agreement other than as may be required in the conduct of business or in connection with performance of any or all of the terms hereof.

13. NBA RELEASE

Upon performance by the NBA and Expansion Teams of all of their obligations and commitments to the Spirits to be performed prior to or contemporaneously with the execution hereof, the Spirits shall execute and deliver to the NBA releases pursuant to an escrow letter from NBA counsel, opinions of counsel, a stipulation of dismissal, copies of which are annexed hereto as Exhibits F1 through F6.

14. SUBSTITUTION

A. On the condition that it is acceptable to the NBA, the Expansion Teams agree that in the event one or more of the Expansion Teams fails to qualify for membership in the NBA as a result of default in performance of its obligations under the terms of the Expansion Agreement, the Spirits and/or its principal limited partners, Ozzie Silna, Daniel Silna and Donald Schupak, shall have the right, upon assumption of all of the defaulting Expansion Team's liabilities arising out of or in connection with the operation of its franchise which have been disclosed in writing as required below, including obligations to the NBA under the terms of the Expansion Agreement, and obligations to the other Expansion Teams in accordance with the written agreements among them, at its or their election to be substituted in place and instead of the

defaulting Expansion Team. In the event the foregoing election is made, the Spirits and its principal limited partners shall promptly cure all defaults under the Expansion Agreement of the defaulting Expansion Team, and thereupon the NBA franchise (membership) to which the defaulting Expansion Team would have been entitled, together with its rights to its player contracts, arena lease and the like, subject to liabilities disclosed in writing as required below of the defaulting Expansion Team arising out of or in connection with the operation of its franchise all of which shall be assumed by the Spirits shall be assigned to and inure to the benefit of the Spirits or its principal limited partners, as the case may be. Prior to exercise of the foregoing election, all liabilities of the defaulting Expansion Team to the other Expansion Teams and all other of its liabilities arising out of or in connection with the operation of its franchise, shall be described in writing to the Spirits by the other Expansion Teams. If the foregoing event occurs and the Spirits or its principal limited partners named above apply for membership in the NBA under the circumstances described above, each of the non defaulting Expansion Teams shall promote and endorse the said application and if they are entitled to vote thereon shall vote in favor of its acceptance. In the event more than one Expansion Team defaults in its obligations under the Expansion Agreement, the Spirits and/or its principal limited partners may elect to be substituted for whichever of the defaulting Expansion Teams it so chooses.

15. ADDITIONAL COLLATERAL SECURITY

As additional collateral security for payment of the Expansion Teams' obligations to the Spirits under Section 2 hereof, subject to the terms of this Section 15 the following Expansion Teams hereby makes the below described assignments to and/or pledges for the benefit of the Spirits.

A. DESIGNATION OF COLLATERAL

(i) Assignment of Player Contracts -

The following Expansion Teams hereby make a "quitclaim" collateral assignment in the form annexed as Exhibit G of each of their respective right, title and interest in and to the player contracts designated below:

(a) Nuggets - Robert Jones

(b) Pacers - Billy Knight

(c) Spurs - George Gervin and Mark Olberding

At any time prior to the Foreclosure Date (hereinafter defined) the Spirits may elect, upon receipt by the respective Expansion Team of written notice of substitution, to substitute the player contract of any other player on each respective Expansion Team's roster for that of the player contract designated above. Any attempted or purported assignment hereunder shall be void ab initio if assignment is prohibited by the terms of any such player contract. None of the Expansion Teams shall make any modifications in the player contracts of the above-referenced players (true and complete copies of which as currently constituted will be delivered to the Spirits within five (5) days hereof) or in the event another player contract substituted therefor, no change shall be made in said substitute pla

contract subsequent to the date of such substitution, without written consent of the Spirits which shall not be unreasonably withheld. Nothing in the foregoing sentence shall restrict or inhibit the modifications to all ABA player contracts contemplated by the Stipulation and Settlement Agreement.

(ii) Cash Collateral

The Nuggets shall within seven (7) days of the date of execution hereof deposit with Schupak, Rosenfeld & Fischbein as pledge agents the sum of $166,667. in cash to be held by them in a separate, segregated interest-bearing savings account at Bankers Trust Company or other bank in New York City pursuant to the terms of a pledge agreement executed contemporaneously herewith by the pledge agent, the Spirits and the Nuggets. The Nuggets may, in lieu of the aforesaid cash security, deliver to the pledge agent hereunder within said seven (7) day period, an irrevocable, assignable "clean" letter of credit from a domestic (U.S.) banking institution reasonably acceptable to the Spirits providing that on or after the Foreclosure Date, (hereafter defined) (but before the expiry date) it will pay the sum of $166,667 to the pledge agent upon presentation of the letter of credit and the pledge agent's sight draft drawn thereon. The letter of credit shall not expire by its terms prior to December 31, 1976. (The collateral referred to in this Section 15 A(ii) shall hereinafter be referred to as "Cash Collateral").

(iii) Substitute Collateral

Any of the Expansion Teams making an assignment of a player contract hereunder may at any time, upon or prior to the Foreclosure Date, substitute said assignment by depositing Cash Collateral with the pledge agent in the same principal amount and under the same terms as provided with respect to the Nuggets in Section 15 A(ii) above. Notwithstanding the foregoing, in the event the Spurs wish to provide substitute collateral hereunder, the principal amount of the Cash Collateral shall, in that event and with respect to the Spurs only, be $125,000.

B. DISPOSITION OF COLLATERAL

(i) Dispersal Draft Not Consummated

In the event the Dispersal Draft is not consummated, the Spirits shall have the right on the Foreclosure Date, to foreclose upon, take possession of, and all right, title and interest in and to the collateral security referred to in Section 15A shall vest in the Spirits, except that if the collateral is Cash Collateral, the pledge agent shall pay $125,000 of the proceeds from each deposit of Cash Collateral to the Spirits and shall pay the balance to the depositing Expansion Team.

(ii) Dispersal Draft Consummated

In the event the Dispersal Draft is consummated, the Spirits shall have the right on the Foreclosure Date, to foreclose upon, take possession of, and all right, title and interest in and to the collateral security referred to in Section 15A shall vest in the Spirits. However, in such event the collateral provided by the Spurs shall not be foreclosed upon and shall be returned to the Spurs.

(iii) "Consummated" Defined

For the purposes of this Section 15, the Dispersal Draft shall be deemed "consummated" if, notwithstanding failure of any of the Expansion Teams to join the NBA as contemplated by the Expansion Agreement, the rights, as provided in the Expansion Agreement, of the "Grantors" therein to retain ownership of the player contracts assigned in the Dispersal Draft are not affected.

C. SALARIES, ETC.

In the event of foreclosure of the collateral described in Section 15A(i), each respective Expansion Team shall

be responsible for all obligations under the player contracts including, but not limited to, all accrued salary, fringe benefits and deferred compensation earned under each respective player contract through the Foreclosure Date and the Spirits hereby assume and agree to pay all obligations under the player contracts including, but not limited to, all salary, fringe benefits and deferred compensation earned subsequent to the Foreclosure Date and the Spirits hereby agree to indemnify, save and hold harmless the Expansion Teams from and against any claim, suit or demand relating to such obligations. With respect to deferred compensation accrued and earned prior to the Foreclosure Date, each respective Expansion Team shall pay an amount equal to such earned, but not then due, deferred compensation under the player contract assigned by it, to Schupak, Rosenfeld & Fischbein to be held by them in escrow for payment as required by each respective player contract when due thereunder.

D. ABA

The Expansion Teams represent, warrant and covenant to maintain the existence of the ABA and each represents, warrants and covenants to do no act in derogation thereof and to do all reasonable acts necessary to maintain and continue the existence of the ABA. The representation, warranty and covenant contained in this Section 15D shall expire and be of no further force and effect in the event any of the Expansion Teams join the NBA as contemplated

by the Expansion Agreement. In the event any of the Expansion Teams maintain the collateral security required hereunder in the form of an assignment of a player contract as herein provided, or in the event the Player Contracts revert to the Spirits pursuant to Section 15 I hereof, each of the Expansion Teams and the ABA agree to and hereby grant an ABA franchise to the Spirits upon payment by it of the sum of $100.00 on or after the Foreclosure Date.

E. TERMINATION

In the event any of the Expansion Teams joins the NBA prior to October 16, 1976, as contemplated by the Expansion Agreement, the obligation to maintain the additional collateral security required by this Section 15 shall automatically terminate and all collateral security deposited hereunder shall be returned to each Expansion Team respectively, and the assignments of player contracts pursuant to this Section 15 shall be rendered null and void and of no further force or effect.

F. SEVERAL LIABILITY - DISCHARGE

Notwithstanding the provisions of Section 11 of this Agreement, the obligation of the Expansion Teams to provide collateral under this Section 15 shall be several and not joint. In the event of foreclosure of collateral provided under Section 15A(i) hereof, the collateral enumerated in each of sections 15A - (i)(a), (b) and (c) shall conclusively

be deemed to have a value of: If foreclosed under circumstances described in Section 15B(i), $125,000 per subsection and if foreclos under circumstances described in Section 15B(ii), $166,667 per subsec

The aggregate value of collateral which has been the subject of foreclosure as herein permitted, undisputed title and possession of which has passed to the Spirits hereunder, shall be credited against the obligation of the Expansion Teams to the Spirits described in Section 2.1C. In the event of the happening of the circumstances described in Section 15B(i) or 15B(ii) (as limited by Section 15B(iii)), the principal amount of the liability of the Expansion Teams to the Spirits under Section 2.1 shall be limited to the obligations set forth in Section 2.1A and 2.1B and $500,000 of the obligations set forth in Section 2.1C and the remainder of the Expansion Team's liability for the principal amount of their obligations set forth in Section 2 which, upon faithful and full performance of all of the Expansion Teams' obligations under this Section 15, shall be deemed discharged in which case the Team Notes evidencing the principal amount of such discharged obligations shall be returned to the Expansion Teams.

G. NO RESTRICTION

In the event the Spirits should be vested with any player contract assigned to it under Section 15A (i)

as a result of foreclosure by the Spirits upon such collateral as permitted hereunder, notwithstanding any ABA by-laws, regulations, rules or the like to the contrary, the Expansion Teams agree that the Spirits shall have the right, subject to any restrictions thereon contained in any of said player contra to sell, assign or convey or otherwise dispose of any or all of said player contracts to any other team in professional basketball whether in the ABA or in the NBA, and each Expansion Team hereby waives any rights it may have to object to or prevent any such disposition.

H. FORECLOSURE DATE

The Spirits shall have the right to foreclose upon the collateral under this Section 15 in the event none of the Expansion Teams joins the NBA as contemplated by the Expansion Agreement. The date upon which the Spirits right to foreclose upon the collateral shall be deemed to have matured shall be the earlier of the date upon which the Expansion Agreement is terminated by the NBA pursuant to the terms thereof or October 15, 1976, (or the Closing Date as defined in the Expansion Agreement or an extended Closing Date relating to entry into the NBA by any Expansion Team for the 1976-77 season) but in any event shall be no later than October 25, 1976; said date shall be deemed the "Foreclosure Date" as used in this Section 15.

I. REVERSION OF PLAYER CONTRACTS

In the event the Dispersal Draft is not consummated, the Player Contracts, assigned under Section 10 hereof, shall revert to the Spirits and all right, title and interest in and to the Player Contracts shall revert to the Spirits, and the Spirits thereupon and thereafter shall be responsible for and assume all obligations to players under said Player Contracts with respect to all periods from and after the date of such reversion.

16. JUDGMENT

The parties consent to the filing of the Spirits' Amended Cross-Claim in the Lawsuit as requested in the Spirits' motion for leave to file its Amended Cross-Claim made to the Court on July 20, 1976 and hereby acknowledge service thereof. The parties agree that this Agreement shall be filed in the Lawsuit in the United States District Court, Southern District of New York, as a stipulation of settlement of the Spirits' Amended Cross-Claim, and the parties shall request the Court to issue an Order decreeing that this Agreement shall have the effect of a Judgement therein pursuant to which the Court shall retain jurisdiction over the parties to enforce the terms of this Agreement and the Judgment. A form of the Order to be submitted to the Court is annexed hereto as Exhibit I.

17. CONDITION PRECEDENT

The performance of all of the obligations required to be performed by the ABA and the Expansion Teams hereunder prior to or contemporaneously with the execution of this Agreement, including but not limited to payments to be made and promissory notes and documents to be executed and delivered, (specifically as set forth in Sections 2, 3 and 5 and contra the obligations of the Spirits set forth in Section 13) shall be a condition precedent to performance by the Spirits (or the ABA or Expansion Teams, as the case may be) of any of the obligations to be performed by it (or them, as the case may be) hereunder. In the event this Agreement is not executed, and/or the foregoing conditions precedent are not satisfied on or before July 30, 1976, the Spirits may at its election proceed with its Cross-Claim and Amended Cross-Claim in the Lawsuit, in which case this Agreement shall be deemed a privileged offer to settle and compromise only and shall not be admissable by the ABA or any Expansion Team as evidence for any purposes in any court, not shall it be presented by either the ABA or any of the Expansion Teams to any judge or any trier of facts in any legal proceedings between the parties, except in an action by the Spirits against the ABA or any Expansion Team for enforcement or relating to breach by the ABA or any Expansion Team of any of its obligations hereunder.

18. MISCELLANEOUS

18.1 This Agreement may not be modified except by a writing executed by the party to be charged.

18.2 A party hereto shall not be deemed to have waived any rights it may have herein against any other party unless such waiver is set forth in writing executed by the party to be charged. Failure to exercise or waiver of any rights by any party against any other party at any time shall not be deemed a waiver of that right or any other right or rights in the future.

18.3 All notices or elections provided for herein, or sent by any party to any other party in connection herewith, shall be sent Certified Mail Return Receipt Requested postage prepaid, copy to all other parties in the same manner, at the addresses set forth on Schedule IV, or to such other address as any party may designate by sending notice of any desired change of address to all parties in the manner provided herein.

18.4 This Agreement shall be interpreted in accordance with the laws of the State of New York.

18.5 The Expansion Teams and the ABA shall promptly and without delay execute any and all further documents as may reasonably be requested by the Spirits in connection with perfecting any security or other interests conveyed by the ABA and/or any Expansion Team to the Spirits hereunder, including but not

limited to Financing Statements in the form prescribed by the U.C.C. in any situation in which filing is deemed necessary and desirable by the Spirits for perfection of its security interests. In addition each party hereto shall execute and deliver in a timely manner such additional documents as may reasonably be requested by any other party in connection with consummation of and to effectuate the purposes of the transactions referred to in this Agreement.

18.6 Each party has delivered an opinion of its counsel in form satisfactory to counsel for the other party.

18.7 No modifications may be made to the Expansion Agreement or the Stipulation and Settlement Agreement without the express written consent of the Spirits unless such modifications in no wise effect, diminish, or limit the Spirits' rights hereunder.

18.8 Although the ABA is referred to as a party to this Agreement and is referred to in this Agreement, the parties executing this Agreement agree that the ABA is not and shall not (i) be construed to be a party to this Agreement; or (ii) have any obligations under this Agreement.

18.9 The Spirits hereby agree to indemnify, save and

hold the Expansion Teams and the ABA harmless from and against any and all losses, damages, and costs including reasonable attorney fees which result from or are based upon a claim by any person that such person (i) has a right or interest in the Spirits or the assets of the Spirits; or (ii) has a right to any of the Spirits' benefits under this Agreement.

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IN WITNESS WHEREOF, the parties have executed this Agreement at New York, New York, the day and year first above written.

SPIRITS OF ST. LOUIS BASKETBALL CLUB, L.P.

By: _____

AMERICAN BASKETBALL ASSOCIATION

By: _____

DENVER NUGGETS, INC.

By: _____

ARENA SPORTS, INC.

By: _____

LONG ISLAND SPORTS

By: _____

SAN ANTONIO BASKETBALL, LTD.

By: _____

SCHEDULE I

SPIRITS PLAYER CONTRACTS

The Spirits have player contracts with the following players: Marvin Barnes, Moses Malone, Steve Green, Randy Denton, Ron Boone, Mike Barr, Barry Parkhill, Fred Lewis, Mike D'Antoni, Donald Chaney, Caldwell Jones, M.L. Carr, Lonnie Shelton.

SCHEDULE II

DEFERRED SALARY PAYABLE UNDER SPIRITS CONTRACTS

The following represents the deferred salary obligations of the Spirits to its players as accrued to June 15, 1976.

1. Don Adams - $8,333.33, payable in 12 equal semi-monthly installments beginning November 1, 1976.

2. Ron Boone - $20,000, payable January 1, 1978; $20,000, payable January 1, 1979; $20,000, payable January 1, 1980; $20,000, payable January 1, 1981.

3. Tom Roy - $35,000 payable in 5 equal annual installments commencing September, 1976.

4. Gus Gerard - $75,000 per year starting September 1, 1979. Spirits pay only the first year. Denver pays the rest for the following four years.

5. Steven Green - $10,000 payable in 12 equal monthly installments beginning January 1, 1980.

6. Marvin Barnes - deferred compensation is as follows in the following season years:

Season	Deferred
1974-75	$100,000
1975-76	$100,000
1976-77	$125,000
1977-78	$125,000
1978-79	$150,000
1979-80	$150,000
1980-81	$175,000

Season	Deferred
1981-82	$100,000
1982-83	$100,000
1983-84	$100,000
1984-85	$100,000
1985-86	$100,000
1986-87	$100,000
1987-88	$100,000
1988-89	$225,000

7. Maurice Lucas - There is a dispute between the Colonels and the Spirits concerning deferred compensation due Maurice Lucas. Lucas' contract calls for deferred compensation as set forth in the attached letter. The Spirits position is that it is not liable for any deferred compensation.

1729

Sch II

593-0550

July 22, 1976

HAND DELIVERY

Michael Goldberg, Esq.
American Basketball Association
1700 Broadway
New York, New York

Re: Maurice Lucas

Dear Mike:

You have asked me to set forth in writing our understanding of the assumption of deferred compensation obligations to Maurice Lucas.

Lucas' contract of September 10, 1974 with St. Louis provides for deferred compensation in the total amount of $198,000 payable in 24 equal quarterly installments commencing January 2, 1979. Under this formula the sum of $37,000 would be payable each year for six years.

When Lucas was traded to Kentucky, however, the teams apparently entered into an agreement dated December 19, 1975 which recited erroneously that Lucas was to receive $198,000 as deferred compensation, or $33,000 a year, and provided that St. Louis would pay $5,500 a year for six years for a total of $33,000.

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(LIABILITY

In order to resolve this problem as between the four expansion teams and the ABA, it has been agreed that the team which selects Maurice Lucas in the dispersal draft will only be obligated to make the following payments of deferred compensation to Lucas:

1979:	None
1980:	$15,000
1981:	$37,500
1982:	$37,500
1983:	$37,500
1984:	$37,500

The foregoing agreement will be reflected in Exhibit J to the ASAPA agreement and the assignment of contract form (Exhibit 4 to the expansion agreement) with respect to Mr. Lucas.

Sincerely,

Bettina B. Plevan

BBP:ng

cc: Robert S. Carlson, Esq.
(Hand Delivery)

SCHEDULE I

SPIRITS OF ST. LOUIS DEFERRED SALARY OBLIGATIONS

1976	
Don Adams	$ 8,333.33
Tom Roy	7,000.00
1977	
Tom Roy	7,000.00
1978	
Tom Roy	7,000.00
Ron Boone	20,000.00
1979	
Tom Roy	7,000.00
Ron Boone	20,000.00
Gus Gerard	75,000.00
1980	
Tom Roy	7,000.00
Ron Boone	20,000.00
Steve Green	10,000.00
1981	
Marvin Barnes (1)	50,000.00
1982	
Marvin Barnes	100,000.00
1983	
Marvin Barnes	50,000.00
	$ 388,333.33

EXHIBIT

(1) The Barnes contract requires deferred payments of $100,000 payable over the 1981-1982 "Season Years." For purposes of this Schedule the amount due Barnes in each calendar year has not been computed but estimated at 50% per calendar year with respect to each such Season.

(2) Maurice Lucas - There is a dispute between the Colonels and the Spirits concerning deferred compensation due Maurice Lucas. Lucas' contract calls for deferred compensation as set forth in the attached letter. The Spirits' position is that it is not liable for any deferred compensation.

SCHEDULE III

Pursuant to Section 8 of the Agreement between the SPIRITS OF ST. LOUIS BASKETBALL CLUB, L.P., the AMERICAN BASKETBALL ASSOCIATION , the DENVER NUGGETS, INC., (successor in interest to the DENVER NUGGETS BASKETBALL CLUB, successor in interest to DENVER ROCKETS BASKETBALL CLUB, LTD.), ARENA SPORTS, INC. (successor in interest to INDIANA PROFESSIONAL SPORTS, INC.) LONG ISLAND SPORTS (limited partnership), and SAN ANTONIO BASKETBALL, LTD.,(successor in interest to PROFESSIONAL SPORTS, LTD.), without limiting the gererality of Section 8, the Expansion Teams and the ABA have indemnified the SPIRITS against the claims asserted in the lawsuits indentified by the following 5 caption pages.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAVID VAUGHN, JR.,

Plaintiff,

-against-

AMERICAN BASKETBALL ASSOCIATION, NEW VIRGINIA SQUIRES, Defendants, and

NEW YORK NETS, DENVER NUGGETS, INDIANA PACERS, KENTUCKY COLONELS, SPIRITS OF ST. LOUIS, and SAN ANTONIO SPURS, all as members of the American Basketball Association,

Additional Defendants.

76 Civ. 1141 (Mel)

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

LONNIE J. SHELTON, Plaintiff, vs. AMERICAN BASKETBALL ASSOCIATION, A Delaware Corporation, Defendant. THE SPIRITS OF ST. LOUIS, L.P., A Delaware Limited Partnership, Defendant and Third Party Plaintiff, DONALD SCHUPAK, An Individual, HARRY WELTMAN, An Individual, DONALD GRINKER, An Individual, Defendants. vs. RALPH MILLER and ARTHUR MORSE, Third Party Defendants.	Cause No. 76-400C(3)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

TOM COFFMAN'S CUSTOM TAILORING, INC., dba VALET TRAVEL,

Plaintiff,

vs.

SAN DIEGO PROFESSIONAL BASKETBALL CORPORATION, dba SAN DIEGO CONQUISTADORS; AMERICAN BASKETBALL ASSOCIATION, a Delaware Corporation, TEDD MUNCHAK, MIKE STOREN, BOB CARLSON, THURLO E. McCRADY, DAVE DeBUSSCHERE, FRANK GOLDBERG and BUD FISHER, individually and dba DENVER ROCKETS, a corporation, JOHN DOE I through V, inclusive, individually and dba DENVER ROCKETS, TOM BINFORD, WILLIAM BINDLEY, WILLIAM EASON, BILL ORWIG, individually and dba INDIANA PACERS, INDIANA PROFESSIONAL SPORTS, INC. and JOHN DOES VI - X, inclusive, individually and dba INDIANA PACERS; JOHN Y. BROWN, ELLIE BROWN, MIKE STOREN and JOHN DOE XI through XV, inclusive, individually and dba KENTUCKY COLONELS, CINCINNATI SPORTS, INC., a corporation, individually and dba KENTUCKY COLONELS; DAVE DeBUSSCHERE, ROY BOE, individually and dba NEW YORK NETS, JOHN DOES XVI through XX, inclusive, individually and dba NEW YORK NETS, LONG ISLAND SPORTS ENTERPRISES, INC., individually and dba NEW YORK NETS; DONALD SCHUPAK, DAN SILNA, OZZIE SILNA, HARRY WELTMAN, RUBY MARTZKE, individually and dba ST. LOUIS SPIRITS, JOHN DOES XXI through XXV, inclusive, individually, and dba ST. LOUIS SPIRITS, ST. LOUIS SPIRITS, a corporation, ANGELO DROSOS, TERRY STEMBRIDGE, CURTIS VAUGHAN, BILLY McCOMBS, JON SEARY, individually and dba SAN ANTONIO SPURS, JOHN DOES XXVI through XXX inclusive, and THE SAN ANTONIO PROFESSIONAL SPORTS, a corporation, individually and dba SAN ANTONIO SPURS; BILL ORWIG, individually and dba UTAH STARS, JOHN DOES XXXI through XXXV, inclusive and MOUNTAIN STATES SPORTS, INC., individually and dba UTAH STARS; VAN CUNNINGHAM, JACK ANDERSON, JOHN BERNHARDT, individually and dba VIRGINIA SQUIRES, JOHN DOES XXXVI through XL inclusive, and THE NEW VIRGINIA SQUIRES, individually and dba THE NEW VIRGINIA SQUIRES,

Defendants.

CASE NO: 364934

FIRST AM COMPLAI ACCOUNT

Superior Court of the State of California
For County of San Diego

RECEIVED
MAY 3 1976
AMERICAN BASKETBALL ASS'N.

Additional Defendants in Superior Court Case No. 373 180

Plaintiff: LEONARD BLOOM and SAN DIEGO PROFESSIONAL BASKETBALL CORPORATION, a corporation

vs.

Defendants: AMERICAN BASKETBALL ASSOCIATION, a Delaware Corporatic TEDD MUNCHAK, MIKE STOREN, BOB CARLSON, THURLO E. McCRADY, DAVE DeBUSSCHERE; SAN DIEGO SAILS LTD., a California Limited Partnership, LEAF MANAGEMENT INC. a California corporation, General Partner in SAN DIEG SAILS LTD., FRANK GOLDBERG and BUD FISHER, individually and dba SAN DIEGO SAILS; JOE DOE I through V, inclusive, individually and dba SAN DIEGO SAILS; DENVER ROCKETS, a corporation, JOHN DOE VI through X, inclusive, individually and dba DENVER ROC TOM BINFORD, WILLIAM BINDLEY, WILLIAM EASON, BILL ORW individually and dba INDIANA PACERS, INDIANA PROFESSI SPORTS INC. and JOHN DOES XI through XV, inclusive, individually and dba INDIANA PACERS; JOHN Y. BROWN, ELLIE BROWN, MIKE STOREN and JOHN DOE XVI through XX, inclusive, individually and dba KENTUCKY COLONELS, CINCINNATI SPORTS INC., a corpo tion, individually and dba KENTUCKY COLONELS; MIKE OREN, individually and dba MEMPHIS SOUNDS, JOHN DOE XXI through XXV, inclusive, individually and dba MEMPHIS SOUNDS, MEMPHIS SOUNDS, a corporation; DAVE DeBUSSCHERE, ROY BOE, individually and dba NEW YORK METS, JOHN DOES XX through XXX, inclusive, individually and dba NEW YORK METS, LONG ISLAND SPORTS ENTERPRISES INC., individual and dba NEW YORK METS; DONALD SCHUPAK, DAN SILNA, OZZ SILNA, HARRY WELTMAN, RUDY MARTZKE, individually and dba ST. LOUIS SPIRITS, JOHN DOE XXXI through XXXV, inclusive, individually and dba ST. LOUIS SPIRITS, ST. LOUIS SPIRITS, a corporation; ANGELO DROSSOS, TERRY STEMBRIDGE, CURTIS VAUGHAN, BILLY McCOMBS, JOE GEARY, individually and dba SAN ANTONIO SPURS, JOHN DOES XXXVI through XL, inclusive, and THE SAN ANTONI PROFESSIONAL SPORTS, a corporation, individually and dba SAN ANTONIO SPURS; BILL ORWIG, individually and dba UTAH STARS, JOHN DOES XL through XLIV, inclusive, and MOUNTAIN STATES SPORTS, INC., individually and dba UTAH STARS; VAN CUNNINGHAM, JACK ANDERSON, JOHN BERNHARDT, individually and dba VIRGINIA SQUIRES, JOHN DOES XLV through L inclusive, and THE NEW VIRGIN SQUIRES, Individually and dba THE NEW VIRGI SQUIRES.

BEST COPY AVAILABLE

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

RECEIVED
JUN 14 1976
AMERICAN BASKETBALL ASSN.

NO. 383130

SAN DIEGO WHOLESALE CREDIT MEN'S ASSOCIATION, a California Non-Profit Corporation; SAN DIEGO SAILS, LTD., a Limited Partnership; and LEAF MANAGEMENT, INC., a California Corporation,

Plaintiffs,

vs.

AMERICAN BASKETBALL ASSOCIATION, a Delaware Corporation; THURLO E. McCRADY; DAVE DeBUSSCHERE; MICHAEL GOLDBERG; DOES I through V, Inclusive; VAN CUNNINGHAM, JACK ANKERSON, JOHN BERNHARDT, and DOES VI through X, Inclusive, Individually, and dba, VIRGINIA SQUIRES, and THE NEW VIRGINIA SQUIRES; TOM BINFORD, WILLIAM BINDLEY, WILLIAM EASON, INDIANA PROFESSIONAL SPORTS INC., and DOES XI through XV, Inclusive, Individually and dba INDIANA PACERS; JOHN Y. BROWN, ELLIE BROWN, CINCINNATI SPORTS INC., a Corporation, and DOES XVI through XX, Inclusive, Individually and dba, KENTUCKY COLONELS; DAVE DeBUSSCHERE, ROY BOE, LONG ISLAND SPORTS ENTERPRISES INC., a Corporation, and DOES XXI through XXV, Inclusive, Individually and dba NEW YORK NETS; DONALD SCHUPAK, DAN SILNA, OZZIE SILNA, HARRY WELTMAN, SPIRITS OF ST. LOUIS, a Corporation, and DOES XXVI through XXX, Inclusive, Individually and dba SPIRITS OF ST. LOUIS; ANGELO DROSSOS, BILLY McCOMBS, LEO ROSE, THE SAN ANTONIO PROFESSIONAL SPORTS, a Corporation, and DOES XXXI through XXXV, Inclusive, Individually and dba SAN ANTONIO SPURS; BILL DANIELS, WILLIAM ORWIG, MOUNTAIN STATES SPORTS, INC., and DOES XXXVI through XL, Inclusive, Individually, and dba UTAH STARS; CARL SHEER, DENVER NUGGETS MANAGEMENT, INC., a Corporation, and DOES XLI through XLV, Inclusive, Individually and dba DENVER NUGGETS; CALIFORNIA FIRST BANK, a California Corporation; CHEMICAL BANK, a New York Corporation; and DOES XLVI through C, Inclusive,

Defendants.

COMPLAINT FOR RESCISSION AND DAMAGES FOR VIOLATIONS OF THE CALIFORNIA FRANCHISE INVESTMENT LAW, FOR DAMAGES FOR FRAUD, FOR DAMAGES FOR BREACH OF CONTRACT, FOR CANCELLATION OF INSTRUMENTS, FOR INJUNCTIVE AND OTHER RELIEF

(Verified)

SCHEDULE IV

The following are the addresses of all parties to this Agreement where notices or elections should be sent:

1. American Basketball Assn.
1700 Broadway
New York, New York 10019

2. National Basketball Assn.
Two Pennsylvania Plaza
New York, New York

3. Denver Nuggets, Inc.
1635 Clay Street
Denver, Colorado 80204

4. Spirits of St. Louis
Basketball Club, L.P.
c/o Schupak, Rosenfeld & Fischbein
555 Madison Avenue
New York, New York 10022

5. Arena Sports, Inc.
151 N. Delaware St.
Indianapolis, Ind. 46204

6. San Antonio Basketball, Ltd.
P.O. Box 530
Hemisfair Arena
San Antonio, Texas 78292

7. Long Island Sports
One Old Country Road
Carle Place, New York 11514

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SERIES PROMISSORY NOTE

July 26, 1976

$500,000.00 New York, New York

FOR VALUE RECEIVED, the Denver Nuggets, Inc. (successor in interest to the Denver Nuggets Basketball Club, successor in interest to Denver Rockets Basketball Club, Ltd.), Arena Sports, Inc. (successor in interest to Indiana Professional Sports, Inc.), Long Island Sports (a limited partnership), and San Antonio Basketball, Ltd. (successor in interest to Professional Sports, Ltd.) (hereinafter jointly called the "Payors"), hereby jointly and severally promise to pay to the Spirits of St. Louis Basketball Club, L.P. or assigns (hereinafter called the "Payee") the principal amount of Five Hundred Thousand ($500,000.00) dollars in lawful money of the United States of America on This Note shall bear interest at the annual rate of 7-1/2% from through its due date. Interest shall not be paid currently, but accrued, compounded annually, and paid on September 1, 1980.

This Note is one of a series of six (6) notes of even date herewith, aggregating One million nine hundred twenty-eight thousand ($1,928,000.00) dollars (the "Team Notes"). In the event the principal amount of any one of the Team Notes is not paid in full when due and said default continues for a period of ten (10) days following written notice of said default to each Payor, the entire outstanding balance of all Team Notes whether or not then otherwise due, together with accrued interest thereon, shall be-

come immediately due and payable at the election of the Payee or any holder of any such Team Note. In the event of a default in payment of principal on any of the Team Notes, interest shall be computed from the due date of any unpaid Team Note until full payment is made of the principal amount thereof at the annual rate of eleven (11) percent.

The liability of each of the Denver Nuggets, Inc. (successor in interest to the Denver Nuggets Basketball Club, successor in interest to Denver Rockets Basketball Club, Ltd.), Arena Sports, Inc. (successor in interest to Indiana Professional Sports, Inc.), Long Island Sports (a limited partnership), and San Antonio Basketball, Ltd. (successor in interest to Professional Sports, Ltd.) hereunder shall not exceed 50% of the principal amount of this Note.

Each Payor, maker, surety, guarantor, and endorser of this Note hereby waives presentment for payment, demand, protest and notice of protest or of dishonor or non-payment of this Note.

Each Payor further agrees, if this Note should be placed in the hands of an attorney for collection, to be jointly and severally liable for, and to pay all reasonable costs of collection, including, without limitation, attorneys' fees, but not in excess of fifteen (15) percent of the amount due hereon provided that the liability of each Payor shall not exceed 50% of the amount of such costs and fees.

This Note may be prepaid in whole or in part at any time, without penalty, but with interest to the date of payment. This Note shall be construed in accordance with the laws of the State of New York.

All payments hereunder shall be made at the office

of Schupak, Rosenfeld & Fischbein, or at such other place as the Payee or any successor may designate to the Payors in writing.

When the principal amount of the Note is paid, the Payee shall so acknowledge by signing where indicated below.

When the interest on this Note is paid, the Payee shall so acknowledge by signing where indicated below.

DENVER NUGGETS, INC.

By: _____

ARENA SPORTS, INC.

By: _____

LONG ISLAND SPORTS

By: _____

SAN ANTONIO BASKETBALL, LTD.

By: _____

PAYOR COPY

A. This is to acknowledge that the principal amount of this Note in the amount of $ has been paid and that there remains due and owing pursuant to the terms hereof interest in the amount of $ to be payable on

By_____

B. This is to acknowledge that all interest due on this Note in the amount of $ has been paid.

By_____

1744

PAYEE COPY

A. This is to acknowledge that the principal amount of this Note in the amount of $ has been paid and that there remains due and owing pursuant to the terms hereof interest in the amount of $ to be payable on

By_____

B. This is to acknowledge that all interest due on this Note in the amount of $ has been paid.

By_____

1745

SERIES PROMISSORY NOTE

July 26, 1976

$250,000.00 New York, New York

FOR VALUE RECEIVED, the Denver Nuggets, Inc. (successor in interest to the Denver Nuggets Basketball Club, successor in interest to Denver Rockets Basketball Club, Ltd.), Arena Sports, Inc. (successor in interest to Indiana Professional Sports, Inc.), Long Island Sports (a limited partnership), and San Antonio Basketball, Ltd. (successor in interest to Professional Sports, Ltd.) (hereinafter jointly called the "Payors"), hereby jointly and severally promise to pay to the order of the Spirits of St. Louis Basketball Club, L.P. or assigns (hereinunder called the "Payee") the principal amount of Two Hundred Fifty Thousand ($250,000.00) dollars in lawful money of the United States of America on This Note shall bear interest at the annual rate of 7-1/2% from through its due date. Interest shall not be paid currently, but accrued, compounded annually, and paid on September 1, 1980.

This Note is one of a series of six (6) notes of even date herewith, aggregating One million nine hundred twenty-eight thousand ($1,928,000.00) dollars (the "Team Notes"). In the event the principal amount of any one of the Team Notes is not paid in full when due and said default continues for a period of ten (10) days following written notice said default to each Payor, the entire outstanding balance of all Team Notes whether or not then otherwise due, together with accrued interest thereon, shall be-

come immediately due and payable at the election of the Payee or any holder of any such Team Note. In the event of a default in payment of principal on any of the Team Notes, interest shall be computed from the due date of any unpaid Team Note until full payment is made of the principal amount thereof at the annual rate of eleven (11) percent.

The liability of each of the Denver Nuggets, Inc. (successor in interest to the Denver Nuggets Basketball Club, successor in interest to Denver Rockets Basketball Club, Ltd.), Arena Sports, Inc. (successor in interest to Indiana Professional Sports, Inc.), Long Island Sports (a limited partnership), and San Antonio Basketball, Ltd. (successor in interest to Professional Sports, Ltd.) hereunder shall not exceed 50% of the principal amount of this Note.

Each Payor, maker, surety, guarantor, and endorser of this Note hereby waives presentment for payment, demand, protest and notice of protest or of dishonor or non-payment of this Note.

Each Payor further agrees, if this Note should be placed in the hands of an attorney for collection, to be jointly and severally liable for, and to pay all reasonable costs of collection, including, without limitation, attorneys' fees, but not in excess of fifteen (15) percent of the amount due hereon provided that the liability of each Payor shall not exceed 50% of the amount of such costs and fees.

This Note may be prepaid in whole or in part at any time, without penalty, but with interest to the date of payment. This Note shall be construed in accordance with the laws of the State of New York.

All payments hereunder shall be made at the office

of Schupak, Rosenfeld & Fischbein , or at such other place as the Payee or any successor may designate to the Payors in writing.

When the principal amount of the Note is paid, the Payee shall so acknowledge by signing where indicated below.

When the interest on this Note is paid, the Payee shall so acknowledge by signing where indicated below.

DENVER NUGGETS, INC.

By: /s/ Daniel S. Hoffman, Exec Comm

ARENA SPORTS, INC.

By: /s/ Willard Eason, Chairman

LONG ISLAND SPORTS

By: /s/ Robert S. Carlson, Atty in Fact for Roy Boe

SAN ANTONIO BASKETBALL, LTD.
By CONCESSIONS, INC., GENERAL PARTNER

By: /s/ Dan G. Webster, III - Its Attorney-in Fa

PAYOR COPY

A. This is to acknowledge that the principal amount of this Note in the amount of $ has been paid and that there remains due and owing pursuant to the terms hereof interest in the amount of $ to be payable on

By_____

B. This is to acknowledge that all interest due on this Note in the amount of $ has been paid.

By_____

1749

PAYEE COPY

A. This is to acknowledge that the principal amount of this Note in the amount of $ has been paid and that there remains due and owing pursuant to the terms hereof interest in the amount of $ to be payable on

By_____

B. This is to acknowledge that all interest due on this Note in the amount of $ has been paid.

By_____

1750

SERIES PROMISSORY NOTE

July 26, 1976

$400,000.00 New York, New York

FOR VALUE RECEIVED, the Denver Nuggets, Inc. (successor in interest to the Denver Nuggets Basketball Club, successor in interest to Denver Rockets Basketball Club, Ltd.), Arena Sports, Inc. (successor in interest to Indiana Professional Sports, Inc.), Long Island Sports (a limited partnership), and San Antonio Basketball, Ltd. (successor in interest to Professional Sports, Ltd.) (hereinafter jointly called the "Payors"), hereby jointly and severally promise to pay to the order of the Spirits of St. Louis Basketball Club, L.P. or assigns (hereinunder called the "Payee") the principal amount of Four Hundred Thousand ($400,000.00) dollars in lawful money of the United States of America on This Note shall bear interest at the annual rate of 7-1/2% from through its due date. Interest shall not be paid currently, but accrued, compounded annually, and paid on September 1, 1980.

This Note is one of a series of six (6) notes of even date herewith, aggregating One million nine hundred twenty-eight thousand ($1,928,000.00) dollars (the "Team Notes"). In the event the principal amount of any one of the Team Notes is not paid in full when due and said default continues for a period of ten (10) days following written notice of said default to each Payor, the entire outstanding balance of all Team Notes whether or not then otherwise due, together with accrued interest thereon, shall be-

come immediately due and payable at the election of the Payee or any holder of any such Team Note. In the event of a default in payment of principal on any of the Team Notes, interest shall be computed from the due date of any unpaid Team Note until full payment is made of the principal amount thereof at the annual rate of eleven (11) percent.

The liability of each of the Denver Nuggets, Inc. (successor in interest to the Denver Nuggets Basketball Club, successor in interest to Denver Rockets Basketball Club, Ltd.), Arena Sports, Inc. (successor in interest to Indiana Professional Sports, Inc.), Long Island Sports (a limited partnership), and San Antonio Basketball, Ltd. (successor in interest to Professional Sports, Ltd.) hereunder shall not exceed 50% of the principal amount of this Note.

Each Payor, maker, surety, guarantor, and endorser of this Note hereby waives presentment for payment, demand, protest notice of protest or of dishonor or non-payment of this Note.

Each Payor further agrees, if this Note should be placed in the hands of an attorney for collection, to be jointly and severally liable for, and to pay all reasonable costs of collection, including, without limitation, attorneys' fees, but not in excess of fifteen (15) percent of the amount due hereon provided that the liability of each Payor shall not exceed 50% of the amount of such costs and fees.

This Note may be prepaid in whole or in part at any time, without penalty, but with interest to the date of payment. This Note shall be construed in accordance with the laws of the State of New York.

All payments hereunder shall be made at the office

of Schupak, Rosenfeld & Fischbein , or at such other place as the Payee or any successor may designate to the Payors in writing.

When the principal amount of the Note is paid, the Payee shall so acknowledge by signing where indicated below.

When the interest on this Note is paid, the Payee shall so acknowledge by signing where indicated below.

DENVER NUGGETS, INC.

By: /s/ Daniel S. Hoffman, Exec. Comm.

ARENA SPORTS, INC.

By: /s/ Willard Eason, Chairman

LONG ISLAND SPORTS

By: /s/ Robert S. Carlson, Atty. in Fact
For Roy Boe

SAN ANTONIO BASKETBALL, LTD.
By CONCESSIONS, INC., General Partner

By: /s/ Dan G. Webster, III, As Attorney-in-Fac

1753

PAYOR COPY

A. This is to acknowledge that the principal amount of this Note in the amount of $ has been paid and that there remains due and owing pursuant to the terms hereof interest in the amount of $ to be payable on

By_____

B. This is to acknowledge that all interest due on this Note in the amount of $ has been paid.

By_____

1754

PAYOR COPY

A. This is to acknowledge that the principal amount of this Note in the amount of $ has been paid and that there remains due and owing pursuant to the terms hereof interest in the amount of $ to be payable on

By_____

B. This is to acknowledge that all interest due on this Note in the amount of $ has been paid.

By_____

1755

SERIES PROMISSORY NOTE

July 26 , 1976

$350,000.00 New York, New York

FOR VALUE RECEIVED, the Denver Nuggets, Inc. (successor in interest to the Denver Nuggets Basketball Club, successor in interest to Denver Rockets Basketball Club, Ltd.), Arena Sports, Inc. (successor in interest to Indiana Professional Sports, Inc.), Long Island Sports (a limited partnership), and San Antonio Basketball, Ltd. (successor in interest to Professional Sports, Ltd.) (hereinafter jointly called the "Payors"), hereby jointly and severally promise to pay to the order of the Spirits of St. Louis Basketball Club, L.P. or assigns (hereinunder called the "Payee") the principal amount of Three Hundred Fifth Thousand ($350,000.00) dollars in lawful money of the United States of America on This Note shall bear interest at the annual rate of 7-1/2% from through its due date. Interest shall not be paid currently, but accrued, compounded annually, and paid on September 1, 1980.

This Note is one of a series of six (6) notes of even date herewith, aggregating One million nine hundred twenty-eight thousand ($1,928,000.00) dollars (the "Team Notes"). In the event the principal amount of any one of the Team Notes is not paid in full when due and said default continues for a period of ten (10) days following written notice of said default to each Payor, the entire outstanding balance of all Team Notes whether or not then otherwise due, together with accrued interest thereon, shall be-

come immediately due and payable at the election of the Payee or any holder of any such Team Note. In the event of a default in payment of principal on any of the Team Notes, interest shall be computed from the due date of any unpaid Team Note until full payment is made of the principal amount thereof at the annual rate of eleven (11) percent.

The liability of each of the Denver Nuggets, Inc. (successor in interest to the Denver Nuggets Basketball Club, successor in interest to Denver Rockets Basketball Club, Ltd.), Arena Sports, Inc. (successor in interest to Indiana Professional Sports, Inc.), Long Island Sports (a limited partnership), and San Antonio Basketball, Ltd. (successor in interest to Professional Sports, Ltd.) hereunder shall not exceed 50% of the principal amount of this Note.

Each Payor, maker, surety, guarantor, and endorser of this Note hereby waives presentment for payment, demand, protest and notice of protest or of dishonor or non-payment of this Note.

Each Payor further agrees, if this Note should be placed in the hands of an attorney for collection, to be jointly and severally liable for, and to pay all reasonable costs of collection, including, without limitation, attorneys' fees, but not in excess of fifteen (15) percent of the amount due hereon provided that the liability of each Payor shall not exceed 50% of the amount of such costs and fees.

This Note may be prepaid in whole or in part at any time, without penalty, but with interest to the date of payment. This Note shall be construed in accordance with the laws of the State of New York.

All payments hereunder shall be made at the office

1757

of Schupak, Rosenfeld & Fischbein , or at such other place as the Payee or any successor may designate to the Payors in writing.

When the principal amount of the Note is paid, the Payee shall so acknowledge by signing where indicated below.

When the interest on this Note is paid, the Payee shall so acknowledge by signing where indicated below.

DENVER NUGGETS, INC.

By: /s/ Daniel S. Hoffman, Exec Comm

ARENA SPORTS, INC.

By: /s/ Willard Eason, Chairman

LONG ISLAND SPORTS

By: /s/ Robert S. Carlson, Atty in Fact
for Roy Boe

SAN ANTONIO BASKETBALL, LTD.
By CONCESSIONS, INC., GENERAL PARTNER

By: /s/ Dan G. Webster III - Its Attorney-in-Fa

1758

PAYEE COPY

A. This is to acknowledge that the principal amount of this Note in the amount of $ has been paid and that there remains due and owing pursuant to the terms hereof interest in the amount of $ to be payable on

By_____

B. This is to acknowledge that all interest due on this Note in the amount of $ has been paid.

By_____

1759

PAYEE COPY

A. This is to acknowledge that the principal amount of this Note in the amount of $ has been paid and that there remains due and owing pursuant to the terms hereof interest in the amount of $ to be payable on

By_____

B. This is to acknowledge that all interest due on this Note in the amount of $ has been paid.

By_____

1760

SERIES PROMISSORY NOTE

July 26, 1976

$200,000.00 New York, New York

FOR VALUE RECEIVED, the Denver Nuggets, Inc. (successor in interest to the Denver Nuggets Basketball Club, successor in interest to Denver Rockets Basketball Club, Ltd.), Arena Sports, Inc. (successor in interest to Indiana Professional Sports, Inc.), Long Island Sports (a limited partnership), and San Antonio Basketball, Ltd. (successor in interest to Professional Sports, Ltd.) (hereinafter jointly called the "Payors"), hereby jointly and severally promise to pay to the order of the Spirits of St. Louis Basketball Club, L.P. or assigns (hereinunder called the "Payee") the principal amount of Two Hundred Thousand ($200,000.00) dollars in lawful money of the United States of America on This Note shall bear interest at the annual rate of 7-1/2% from through its due date. Interest shall not be paid currently, but accrued, compounded annually, and paid on September 1, 1980.

This Note is one of a series of six (6) notes of even date herewith, aggregating One million nine hundred twenty-eight thousand ($1,928,000.00) dollars (the "Team Notes"). In the event the principal amount of any one of the Team Notes is not paid in full when due and said default continues for a period of ten (10) days following written notice of said default to each Payor, the entire outstanding balance of all Team Notes whether or not then otherwise due, together with accrued interest thereon, shall be-

come immediately due and payable at the election of the Payee or any holder of any such Team Note. In the event of a default in payment of principal on any of the Team Notes, interest shall be computed from the due date of any unpaid Team Note until full payment is made of the principal amount thereof at the annual rate of eleven (11) percent.

The liability of each of the Denver Nuggets, Inc. (successor in interest to the Denver Nuggets Basketball Club, successor in interest to Denver Rockets Basketball Club, Ltd.), Arena Sports, Inc. (successor in interest to Indiana Professional Sports, Inc.), Long Island Sports (a limited partnership), and San Antonio Basketball, Ltd. (successor in interest to Professional Sports, Ltd.) hereunder shall not exceed 50% of the principal amount of this Note.

Each Payor, maker, surety, guarantor, and endorser of this Note hereby waives presentment for payment, demand, protest and notice of protest or of dishonor or non-payment of this Note.

Each Payor further agrees, if this Note should be placed in the hands of an attorney for collection, to be jointly and severally liable for, and to pay all reasonable costs of collection, including, without limitation, attorneys' fees, but not in excess of fifteen (15) percent of the amount due hereon provided that the liability of each Payor shall not exceed 50% of the amount of such costs and fees.

This Note may be prepaid in whole or in part at any time, without penalty, but with interest to the date of payment. This Note shall be construed in accordance with the laws of the State of New York.

All payments hereunder shall be made at the office

of Schupak, Rosenfeld & Fischbein , or at such other place as the Payee or any successor may designate to the Payors in writing.

When the principal amount of the Note is paid, the Payee shall so acknowledge by signing where indicated below.

When the interest on this Note is paid, the Payee shall so acknowledge by signing where indicated below.

DENVER NUGGETS, INC.

By: /s/ Daniel S. Hoffman, Exec Comm

ARENA SPORTS, INC.

By: /s/ Willard Eason, Chairman

LONG ISLAND SPORTS

By: /s/ Robert S. Carlson, Atty in Fact
for Roy Boe

SAN ANTONIO BASKETBALL, LTD.
By CONCESSIONS, INC., GENERAL PARTNER

By: /s/ Dan G. Webster III - Its Attorney-in-Fa

PAYOR COPY

A. This is to acknowledge that the principal amount of this Note in the amount of $ has been paid and that there remains due and owing pursuant to the terms hereof interest in the amount of $ to be payable on

By_____

B. This is to acknowledge that all interest due on this Note in the amount of $ has been paid.

By_____

1764

PAYEE COPY

A. This is to acknowledge that the principal amount of this Note in the amount of $ has been paid and that there remains due and owing pursuant to the terms hereof interest in the amount of $ to be payable on

By_____

B. This is to acknowledge that all interest due on this Note in the amount of $ has been paid.

By_____

1765

SERIES PROMISSORY NOTE

$228,000.00 (Short Term Note) July 26, 1976

New York, New York

FOR VALUE RECEIVED, the Denver Nuggets, Inc. (successor in interest to the Denver Nuggets Basketball Club, successor in interest to Denver Rockets Basketball Club, Ltd.), Arena Sports, Inc. (successor in interest to Indiana Professional Sports, Inc.), Long Island Sports (a limited partnership), and San Antonio Basketball, Ltd. (successor in interest to Professional Sports, Ltd.) (hereinafter jointly called the "Payors"), hereby jointly and severally promise to pay to the order of the Spirits of St. Louis Basketball Club, L.P. or assigns (hereinafter called the "Payee") the principal amount of Two Hundred Twenty-Eight Thousand ($228,000.00) dollars in lawful money of the United States of America on September 14, 1976.

This Note is one of a series of six (6) notes of even date herewith, aggregating One Million Nine Hundred Twenty-Eight Thousand ($1,928,000.00) dollars (the "Team Notes"). In the event the principal amount of any one of the Team Notes is not paid in full when due and said default continues for a period of ten (10) days following written notice of said default to each Payor, the entire outstanding balance of all Team Notes whether or not then otherwise due, together with accrued interest thereon, shall become immediately due and payable at the election of the Payee or any holder of any such Team Note. In the event of a default in payment of principal on any of the Team Notes, interest shall be computed from the due date of any unpaid Team Note until

full payment is made of the principal amount thereof at the annual rate of eleven (11) percent.

The liability of each of the Denver Nuggets, Inc. (successor in interest to the Denver Nuggets Basketball Club, successor in interest to Denver Rockets Basketball Club, Ltd.), Arena Sports, Inc. (successor in interest to Indiana Professional Sports, Inc.), Long Island Sports (a limited partnership), and San Antonio Basketball, Ltd. (successor in interest to Professional Sports, Ltd.) hereunder shall not exceed 50% of the principal amount of this Note.

Each Payor, maker, surety, guarantor, and endorser of this Note hereby waives presentment for payment, demand, protest and notice of protest or of dishonor or non-payment of this Note.

Each Payor further agrees, if this Note should be placed in the hands of an attorney for collection, to be jointly and severally liable for, and to pay all reasonable costs of collection, including, without limitation, attorneys' fees, but not in excess of fifteen (15) percent of the amount due hereon, provided that the liability of each Payor shall not exceed fifty (50) percent of the amount of such costs and fees.

This Note may be prepaid in whole or in part at any time, without penalty. This Note shall be construed in accordance with the laws of the State of New York.

All payments hereunder shall be made at the office of Schupak, Rosenfeld & Fischbein, 555 Madison Avenue, New York, New York or at such other place as the Payee or any successor may designate to the Payors in writing.

DENVER NUGGETS, INC.

By: /s/ Daniel S. Hoffman, Exec. Comm

ARENA SPORTS, INC.

BY: /s/ Willard Eason, Chairman

LONG ISLAND SPORTS

By: /s/ Robert S. Carlson
Atty. in Fact for Roy Boe

SAN ANTONIO BASKETBALL, LTD.
By CONCESSIONS, INC., General Partne

BY: /s/ Dan G. Webster III - As
Attorney-in-Fact

1768

ASSIGNMENT

KNOW ALL MEN BY THESE PRESENTS that, for purposes of effectuating a settlement of the Amended Cross-Claim action filed by the Spirits of St. Louis Basketball Club, L.P. (hereinafter called "Assignor") in an action in the United States District Court of the Southern District of New York styled Robertson v. NBA et al., 70 Civ. 1526, and for other good and valuable consideration, the Assignor does hereby sell, convey, transfer and assign unto Denver Nuggets, Inc., Arena Sports, Inc., Long Island Sports and San Antonio Basketball Ltd. (hereinafter collectively called "Assignee") the exclusive right to the services of individuals listed on the attached Schedule A (the "Players"), as professional basketball players, and the contracts with the Players, copies of which are attached hereto and made a part hereof (which exclusive right and contracts are hereinafter collectively referred to as the "Specific Player Contracts").

TO HAVE AND TO HOLD the Specific Player Contracts unto the Assignees, their successors and assigns forever.

Assignor hereby constitutes and appoints the Assignees as the Assignor's true and lawful attorney, with full power of substitution, in the Assignor's name and stead, on behalf of and for the benefit of the Assignees, to institute and conduct all actions and proceedings which the Assignees may deem necessary or desirable to reduce to possession, enforce and vest in itself all ownership and other rights with respect to the Specific Player Contracts; and Assignor hereby covenants that, from time to time, at the request of the Assignees and without further consideration, Assignor, will, upon the request of the Assignees, execute and deliver all writings and participate, to the extent required by the Assignees, in all actions and proceedings, to effect the foregoing.

Assignor hereby represents and warrants that it owns, and is hereby conveying to the Assignees, full legal and equitable right, title and interest in and to the Specific Player Contracts, free and clear of any charges, liens, claims, security interests or encumbrances of any nature whatsoever, legal or equitable, whether created or existing by contract or by operation of law.

Assignor hereby agrees (a) to pay and discharge any unpaid compensation obligations under the Specific Player Contracts attributable to services rendered by the Players prior to the date hereof, to the extent that such compensation obligations were due and owing to the Players, or any of the Players, on or before July 15, 1976, and (b) to pay and discharge when due any unpaid deferred compansation obligations under the Specific Player Contracts attributable to services rendered by the Players, or any of the Players through the 1975/1976 basketball season.

IN WITNESS WHEREOF, the Assignor has caused this Assignment to be duly executed effective as of the 26th day of July, 1976.

SPIRITS OF ST. LOUIS BASKETBALL CLUB, L.P.
PAK FABRICS, INC., GENERAL PARTNER

By _____
General Partner
Steve Mendelow, Vice President

By _____

1770

MUNCHAK

RELEASE

New York, New York

July , 1976

Theodore J. Munchak, for and in consideration of $1.00 in hand paid and other valuable considerations, the receipt of which is hereby acknowledged, hereby releases and forever discharges Pak Fabrics, Inc., and the Spirits of St. Louis Basketball Club, L.P., a Delaware limited partnership and all of its partners (general and limited) from any and all obligations, claims, liabilities and commitments arising out of, in connection with, or concerning the transactions relating to acquisition by Pak Fabrics, Inc., general partner of the Spirits of St. Louis Basketball Club, L.P., of all of the capital stock of the Munchak Corp., a Georgia corporation, and the Spirits' franchise in the American Basketball Association, which was formerly known as the Carolina Cougars.

Theodore J. Munchak

1771

STATE OF)
) ss.:
COUNTY OF)

On the day of , 1976, before me came Theodore J. Munchak to me known to me to be the individual described in, and who executed, the foregoing instrument, and acknowledged to me that he executed the same.

Notary Public

1772

SPIRITS OF ST. LOUIS BASKETBALL CLUB, L.P.

INDEMNIFICATION AGREEMENT

July 29, 1976

New York, N.Y.

The SPIRITS OF ST. LOUIS BASKETBALL CLUB, L.P. (hereinafter "Spirits") and Ozzie Silna (hereinafter jointly referred to as the "Indemnitors") for and in consideration of $1.00 in hand paid and other valuable consideration, the receipt of which is hereby acknowledged, hereby jointly and severally agree to indemnify and hold Theodore J. Munchak and any corporation or business entity of which he is or was a principal (hereinafter referred to as the "Indemnitee"), harmless from and against any costs, damages or expenses relating to claims made by Joe Caldwell in litigation arising out of or in connection with the Spirits' alleged failure to pay his salary for the 1974/75 basketball season, (hereinafter referred to as "Claims"). Indemnitee hereby authorizes the Spirits to undertake defense of any such action or claim on their or Indemnitee's behalf with counsel to be selected and paid by the Spirits. If said authorization is revoked, Indemnitor shall no longer be liable to Indemnitee hereunder.

This agreement does not apply to expenses relating to Claims and incurred by Indemnited prior to the date hereof.

All parties hereto further severally agree that no modification hereof shall be binding unless in writing and signed by the parties hereto,

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals as of the day and year first above written.

THE SPIRITS OF ST. LOUIS BASKETBALL CLUB, L.P.

By: Pak Fabrics Inc., General Partner

By: _____
Steve Mendelow, Vice President

OZZIE SIENA

By: Ozzie Siena by Donald Schupak, attorney in fact
Donald Schupak, Attorney-in-Fact

AGREED TO AND ACCEPTED:

_____
Theodore J. Munchak

RELEASE AND COVENANT NOT TO SUE

WHEREAS, Pak Fabrics, Inc. ("Pak") has asserted or has threatened to assert claims against (a) the National Basketball Association ("NBA"), (b) all persons, firms, corporations and other entities who currently are or ever have been members of the NBA, parties to the joint venture agreement among such members, or holders of franchises in the NBA, and (c) all current and former shareholders, holders of ownership interests in, directors, officers, executives, players and other employees of every entity referred to in (a) or (b) above (said persons and entities being hereinafter collectively referred to as "NBA Parties" and individually as an "NBA Party"); and

WHEREAS, it is the intention of Pak to release and never again to sue the NBA Parties with respect to any or all of the claims it ever had against the NBA Parties; and

WHEREAS, Pak desires to terminate all of its disputes with the NBA Parties including, without limitation, the disputes involved in the action entitled American Basketball Association, et al. v. National Basketball Association, et al., United States District Court, Northern District of California, No. 51055 (AJZ) (the "1969 action") and in the cross-claims filed in the action entitled Oscar Robertson, et al. v. National Basketball Association, et al., United States District Court, Southern District of New York, 70 Civ 1526 (RLC) (the "Robertson Cross-Claims"), and desires to assure the NBA Parties that the 1969 action and the Robertson Cross-Claims will not be further prosecuted and that no other action will be brought against the NBA Parties by Pak, or by any successor or assignee of Pak; and

WHEREAS, Pak is desirous of finally terminating the 1969 action and the Robertson Cross-Claims and forever discharging all claims, demands, liabilities and causes of

action which it may have against the NBA Parties in any matter arising out of the subject matter of the 1969 action and the Robertson Cross-Claims or any other subject matter whatsoever, irrespective of any present lack of knowledge on the part of Pak of any such possible claims; and

WHEREAS, Pak, by executing this instrument, intend specifically to release and never again to sue any NBA Party for any claims arising out of the antitrust laws of the United States, or any state thereof, including, without limitation, claims with respect to: (i) monopolization or conspiracy by any NBA Party; (ii) ownership or control, either directly or indirectly, by any NBA Party of any entit which owns or operates any radio or television network, radi or local television station or cable television facility; (iii) ownership, operation or control, either directly or indirectly, by any NBA Party of any other professional sports franchise or any stadium or arena in which basketball or any other professional sport is played; (iv) the length and terms of any lease agreement or arrangement previously entered into, presently in effect, or hereafter entered into by any NBA Party with any owner or operator of any arena in which professional basketball has been or will be played; (v) the expansion, the announced intention to expand or announced expansion, whether or not it occurred, by any NBA Party into any geographic area in the world; (vi) alleged foreclosure of the American Basketball Association ("ABA") and its teams from any geographical areas and arenas (vii) alleged disparagement of the ABA and its member teams; (viii) alleged violations of the policies of the National Collegiate Athletic Association; (ix) the acquisition or attempted acquisition by any NBA Party of the services of any basketball player, coach, official or other employee; (x) the NBA college draft; (xi) the NBA option or reserve clause;

(xii) deferred compensation paid, proposed to be paid, or to be paid in the future to any basketball player by any NBA Party; (xiii) long-term contracts entered into, proposed to be entered into, or to be entered into in the future between any NBA Party and a basketball player; (xiv) alleged payments of consideration by any NBA Party to any agents representing college basketball players; (xv) the entering into of any local or network radio contract or any local, cable or network television contract by any NBA Party; (xvi) alleged agreements or understandings between any NBA Party and any television network that no competing league's games would be broadcast by said network; (xvii) the inducement of players to breach their contracts with Pak; (xviii) the signing of players to player contracts by the NBA; and (xix) the creation of a pool providing for the joint funding of compensation for players; and

WHEREAS, Pak, by executing this instrument, intends specifically to release and never again to sue any NBA Party for any claim arising out of or relating to an agreement dated May 7, 1971 between the ABA, certain of its then member teams, and certain NBA Parties; and

WHEREAS, Pak, by executing this instrument, intends specifically to release and relinquish and never again to sue any of the NBA Parties with respect to any special draft rights that may have existed prior to the date hereof, including draft rights that may have been given in connection with the settlement of litigation over the services of Spencer Haywood; and

WHEREAS, it is the intention of Pak, by executing this instrument, that it be construed as broadly as possible to be given the greatest effect the law will allow; and

WHEREAS, Pak, by executing this instrument, intends specifically to relinquish, as of the date hereof, its rights, if any, to the services of any basketball players including, but not limited to, the services of the players listed on Exhibit A hereto;

WHEREAS, for valuable consideration, this instrument is being entered into by Pak:

1. Pak by these presents does, for itself, and its successors and assigns remise, release and forever discharge the NBA Parties, their heirs, executors and administrators, successors and assigns, of and from all manner of actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialities, covenants; liabilities, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims and demands whatsoever, in law, in admiralty or in equity against the NBA Parties which Pak ever had, now have or which it, or its successors and assigns can, shall, or may have for or by reason of any matter, cause or thing whatsoever, from the beginning of the world to the day of the date of these presents, and it is the essence of this entire instrument that it is intended to specifically include, without limitation, the following:

(a) all matters, whether or not now known by Pak, asserted in the 1969 action or the Robertson Cross-Claims;

(b) all matters arising out of the antitrust laws of the United States, or any state thereof, including, without limitation, claims with respect to (i) monopolization or conspiracy by any NBA Party; (ii) ownership or control, either directly or indirectly, by any NBA Party of any entity which owns or operates any radio or television network, radio or local television station or cable television facility; (iii) ownership, operation or control, either directly or indirectly, by any NBA Party of any other professional sports franchise or any stadium or arena in which basketball or any other professional sport is played; (iv) the length and terms of any lease agreement or arrangement previously entered into, presently in effect, or hereafter entered into by any NBA Party with any owner or operator of any arena in which professional basketball has been or will be played; (v) the expansion, the announced intention to expand or announced expansion, whether or not it occurred, by any NBA Party into any geographic area in the world; (vi) alleged foreclosure of the ABA and its teams from any geographical areas and arenas; (vii) alleged disparagement of the ABA and its member teams; (viii) alleged violations of the policies of the National Collegiate Athletic Association; (ix) the acquisition or attempted acquisition by any NBA Party of the services of any basketball player, coach, official or other employee; (x) the NBA college draft; (xi) the NBA option or reserve clause; (xii) deferred compensation paid, proposed to be paid, or to be paid in the future to any basketball player by any NBA Party; (xiii) long-term contracts entered into, proposed to be entered into, or to be entered into in the future between any NBA Party and a basketball player; (xiv) alleged payments of consideration by any NBA Party to any agents representing college basketball players; (xv) the entering into of any local or network radio contract or any

local, cable or network television contract by any NBA Party; (xvi) alleged agreements or understandings between any NBA Party and any television network that no competing league's games would be broadcast by said network; (xvii) the inducement of players to breach their contracts with Pak; (xviii) the signing of players to player contracts by the NBA; and (xix) the creation of a pool providing for the joint funding of compensation for players;

(c) all claims arising out of or relating to an agreement dated May 7, 1971 between the ABA, certain of its then member teams, and certain NBA Parties;

(d) all claims with respect to any special draft rights that may have existed prior to the date hereof, including draft rights that may have been given in connection with the settlement of litigation over the services of Spencer Haywood;

2. Pak by these presents does, for itself, and its successors and assigns remise, release and forever discharge the NBA Parties, their heirs, executors and administrators, successors and assigns, of and from all manner of claims, whether now or hereafter in existence, concerning the termination of the membership of the New York Nets, the Indiana Pacers, the San Antonio Spurs and the Denver Nuggets in the ABA and said teams' execution and performance of their respective agreements to become members of the NBA.

3. Pak, on behalf of itself, its heirs, successors and assigns, hereby agrees never to directly or indirectly commence or prosecute, or assist in the commencement or prosecution of, or in any way cause, permit or advise to be commenced or prosecuted, any action or proceeding against the NBA Parties or to assert against the NBA Parties in any

action or proceeding any matter, whether or not now known, based upon any act, transaction, practice, conduct or omission of the NBA Parties that occurred prior to the date of this instrument, including, without limitation, any action or proceeding concerning the matters referred to in Paragraphs 1 and 2 hereof.

4. Pak, on behalf of itself and its heirs, successors and assigns, subject to the provisions of Paragraph 3(B) of the Stipulation and Settlement Agreement in the action entitled American Basketball Association Players Association, et al. v. National Basketball Association, et al., United States District Court, Southern District of New York, No. 75 Civ. 6184 (RLC), executed as of July 26, 1976, hereby waives, relinquishes and releases all claims and rights they may have as of the date hereof, to the services of any basketball players, including, but not limited to, the services of the players listed on Exhibit A hereto.

5. This instrument shall be binding upon and inure to the benefit of Pak and each of the NBA Parties and their respective personal representatives, successors and assigns, by contract or by operation of the law. No waiver of any right which might be asserted hereunder by any of the NBA Parties shall be effective unless set forth in a writing duly signed by the NBA Parties and no waiver of any right on one occasion shall constitute any waiver of such right or a similar right on any subsequent occasion.

6. This instrument shall be governed by and construed under the laws of the State of New York as applied

to contracts to be wholly performed within such State without reference to rules regarding choice of conflicts of law.

7. Pak expressly acknowledges that none of the NBA Parties, nor anyone allegedly acting on the behalf of any of them, has made any representations, warranties or agreements, nor have any statements of any nature been made, on which Pak has relied in executing and delivering this instrument. Pak irrevocably waives and relinquishes, and covenants that it shall not assert or allege, any claim that it has been fraudulently induced to enter into, execute and deliver (or cause to execute and deliver) this instrument.

8. In the event that there shall appear to be any inconsistency between the recitals and Paragraphs 1 through 7 of this instrument, the provisions of said Paragraphs 1 through 7 shall prevail.

IN WITNESS WHEREOF, Pak has caused this instrument to be signed by a duly authorized officer on the day of July, 1976.

Pak Fabrics, Inc.

By _____
V. P.

1782

STATE OF N.Y.)
: ss.:
COUNTY OF N.Y.)

On the 29 day of July, 1976 before me personally came Steve Mendelow to me known, who, being by me duly sworn, did depose and say that he resides at 1318 Aaron Rd, N. Brunswick, N.J., that he is the Vice Pres. of Pak Fabrics, Inc., the corporation described in and which has executed the foregoing instrument; that the said instrument was so executed by order of the Board of Directors of said corporation pursuant to a duly constituted meeting held on July 29, 1976 and that he signed his name thereto by like order.

Donna-Marie Gilligan
Notary Public

DONNA-MARIE GILLIGAN
Notary Public, State of New York
No. 41-4528433
Qualified in Queens County
Commission Expires March 30, 1978

EXHIBIT A

Marvin Barnes

Michael Barr

Ron Boone

M. L. Carr

Don Chaney

Mike D'Antoni

Randall Denton

Steven Michael Green

Caldwell Jones

Fred Lewis

Moses Malone

Barry Parkhill

Lonnie Shelton

RELEASE AND COVENANT NOT TO SUE

WHEREAS, the Spirits of St. Louis Basketball Club, a limited partnership (the "Spirits"), has asserted or has threatened to assert claims against (a) the National Basketball Association ("NBA"), (b) all persons, firms, corporations and other entities who currently are or ever have been members of the NBA, parties to the joint venture agreement among such members, or holders of franchises in the NBA, and (c) all current and former shareholders, holders of ownershi interests in, directors, officers, executives, players and other employees of every entity referred to in (a) or (b) above (said persons and entities being hereinafter collectively referred to as "NBA Parties" and individually as an "NBA Party"); and

WHEREAS, The Munchak Corporation, a Delaware Corporation ("Munchak Delaware"), and the Spirits are parties cross-claimants to cross-claims filed in the action entitled Oscar Robertson, et al. v. National Basketball Association, et al., 70 Civ. 1526 (RLC), which action is pending in the United States District Court for the Southern District of New York ("Robertson Cross-Claims"); and

WHEREAS, The Munchak Corporation, a Georgia Corporation ("Predecessor Team") is a party cross-claimant to the Robertson Cross-Claims and/or has asserted or has threatened to assert claims against the NBA Parties; and

WHEREAS, Southern Sports Corporation was a plain-

tiff in the action entitled American Basketball Association, et al. v. National Basketball Association, et al., United States District Court, Northern District of California, No. 51055 (AJZ) (the "1969 action"); and

WHEREAS, the Spirits has succeeded to all of the right, title and interest to all the claims, including, without limitation, those claims set forth in the Robertson Cross-Claims and the 1969 action, that the Predecessor Team ever had against the NBA Parties; and

WHEREAS, it is the intention of the Spirits to release and never again to sue the NBA Parties with respect to any or all of the claims it or the Predecessor Team ever had against the NBA Parties; and

WHEREAS, the Spirits desires to terminate all of its disputes with the NBA Parties including, without limitation, the disputes involved in the 1969 action and the Robertson Cross-Claims, and desires to assure the NBA Parties that the 1969 action and the Robertson Cross-Claims will not be further prosecuted and that no other action will be brought against the NBA Parties by the Spirits, by the Predecessor Team, or by any successor or assignee of the Spirits or of the Predecessor Team; and

WHEREAS, the Spirits is desirous of finally terminating the 1969 action and the Robertson Cross-Claims and forever discharging all claims, demands, liabilities and causes of action which it or the Predecessor Team may have against the NBA Parties in any matter arising out of the subject matter of the 1969 action and the Robertson Cross-Claims or any other subject matter whatsoever, irre-

spective of any present lack of knowledge on the part of the Spirits or the Predecessor Team of any such possible claims; and

WHEREAS, the Spirits, by executing this instrument, intends specifically to release and never again to sue any NBA Party for any claims arising out of the anti-trust laws of the United States, or any state thereof, including, without limitation, claims with respect to: (i) monopolization or conspiracy by any NBA Party; (ii) ownership or control, either directly or indirectly, by any NBA Party of any entity which owns or operates any radio or television network, radio or local television station or cable television facility; (iii) ownership, operation or control, either directly or indirectly, by any NBA Party of any other professional sports franchise or any stadium or arena in which basketball or any other professional sport is played; (iv) the length and terms of any lease agreement or arrangement previously entered into, presently in effect, or hereafter entered into by any NBA Party with any owner or operator of any arena in which professional basketball has been or will be played; (v) the expansion, the announced intention to expand or announced expansion, whether or not it occurred, by any NBA Party into any geographic area in the world; (vi) alleged foreclosure of the American Basketball Association ("ABA") and its teams from any geographical areas and arenas; (vii) alleged disparagement of the ABA and its member teams; (viii) alleged violations of the policies of the National Collegiate Athletic Association; (ix) the acquisition or attempted acquisition by any NBA Party of the services of any

basketball player, coach, official or other employee; (x) the NBA college draft; (xi) the NBA option or reserve clause; (xii) deferred compensation paid, proposed to be paid, or to be paid in the future to any basketball player by any NBA Party; (xiii) long-term contracts entered into, proposed to be entered into, or to be entered into in the future between any NBA Party and a basketball player; (xiv) alleged payments of consideration by any NBA Party to any agents representing college basketball players; (xv) the entering into of any local or network radio contract or any local, cable or network television contract by any NBA Party; (xvi) alleged agreements or understandings between any NBA Party and any television network that no competing league's games would be broadcast by said network; (xvii) the inducement of players to breach their contracts with the Spirits; (xviii) the signing of players to player contracts by the NBA; and (xix) the creation of a pool providing for the joint funding of compensation for players; and

WHEREAS, the Spirits, by executing this instrument, intends specifically to release and never again to sue any NBA Party for any claim arising out of or relating to an agreement dated May 7, 1971 between the ABA, certain of its then member teams, and certain NBA Parties; and

WHEREAS, the Spirits, by executing this instrument, intends specifically to release and relinquish and never again to sue any of the NBA Parties with respect to any special draft rights that may have existed prior to the date hereof, including draft rights that may have been given in connection with the settlement of litigation over the services of Spencer Haywood; and

WHEREAS, it is the intention of the Spirits, by executing this instrument, that it be construed as broadly as possible to be given the greatest effect the law will allow; and

WHEREAS, the Spirits, by executing this instrument, intends specifically to relinquish, as of the date hereof, its rights, if any, and those of the Predecessor Team, if any, to the services of any basketball players, including, but not limited to, the services of the players listed on Exhibit A hereto; and

WHEREAS, for valuable consideration, this instrument is being entered into by the Spirits:

1. The Spirits hereby represents, and it is the essence of this entire instrument, that the Spirits has succeeded to all claims against the NBA Parties, including those asserted in the Robertson Cross-Claims, ever held by the Predecessor Team.

2. The Spirits by these presents does, for itself, the Predecessor Team and their respective successors and assigns remise, release and forever discharge the NBA Parties, their heirs, executors and administrators, successors and assigns, of and from all manner of actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, liabilities, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims and demands whatsoever, in law, in admiralty or in equity against the NBA Parties which the Spirits or the Predecessor Team ever had, now have or which they, or their respective succes-

sors and assigns can, shall, or may have for or by reason of any matter, cause or thing whatsoever, from the beginning of the world to the day of the date of these presents, and it is the essence of this entire instrument that it is intended to specifically include, without limitation, the following:

(a) all matters, whether or not now known by the Spirits, asserted in the 1969 action or the Robertson Cross-Claims;

(b) all matters arising out of the antitrust laws of the United States, or any state thereof, including, without limitation, claims with respect to (i) monopolization or conspiracy by any NBA Party; (ii) ownership or control, either directly or indirectly, by any NBA Party of any entity which owns or operates any radio or television network, radio or local television station or cable television facility; (iii) ownership, operation or control, either directly or indirectly, by any NBA Party of any other professional sports franchise or any stadium or arena in which basketball or any other professional sport is played; (iv) the length and terms of any lease agreement or arrangement previously entered into, presently in effect, or hereafter entered into by any NBA Party with any owner or operator of any arena in which professional basketball has been or will be played; (v) the expansion, the announced intention to expand or announced expansion, whether or not it occurred, by any NBA Party into any geographic area in the world; (vi) alleged foreclosure of the ABA and its teams from any geographical areas and arenas; (vii) alleged disparagement of the ABA and its member teams; (viii) alleged violations of the policies of the National Collegiate Athletic Association;

(ix) the acquisition or attempted acquisition by any NBA Party of the services of any basketball player, coach, official or other employee; (x) the NBA college draft; (xi) the NBA option or reserve clause; (xii) deferred compensation paid, proposed to be paid, or to be paid in the future to any basketball player by any NBA Party; (xiii) long-term contracts entered into, proposed to be entered into, or to be entered into in the future between any NBA Party and a basketball player; (xiv) alleged payments of consideration by any NBA Party to any agents representing college basketball players; (xv) the entering into of any local or network radio contract or any local, cable or network television contract by any NBA Party; (xvi) alleged agreements or understandings between any NBA Party and any television network that no competing league's games would be broadcast by said network; (xvii) the inducement of players to breach their contracts with the Spirits; (xviii) the signing of players to player contracts by the NBA; and (xix) the creation of a pool providing for the joint funding of compensation for players;

(c) all claims arising out of or relating to an agreement dated May 7, 1971 between the ABA, certain of its then member teams, and certain NBA Parties; and

(d) all claims with respect to any special draft rights that may have existed prior to the date hereof, including draft rights that may have been given in connection with the settlement of litigation over the services of Spencer Haywood.

3. The Spirits by these presents does, for it-

self, the Predecessor Team and their respective successors and assigns remise, release and forever discharge the NBA Parties, their heirs, executors and administrators, successors and assigns, of and from all manner of claims, whether now or hereafter in existence, concerning the termination of the membership of the New York Nets, the Indiana Pacers, the San Antonio Spurs and the Denver Nuggets in the ABA and said teams' execution and performance of their respective agreements to become members of the NBA.

4. The Spirits, on behalf of itself, the Predecessor Team, and their respective heirs, successors and assigns, hereby agrees never to directly or indirectly commence or prosecute, or assist in the commencement or prosecution of, or in any way cause, permit or advise to be commenced or prosecuted, any action or proceeding against the NBA Parties or to assert against the NBA Parties in any action or proceeding any matter, whether or not now known, based upon any act, transaction, practice, conduct or omission of the NBA Parties that occurred prior to the date of this instrument, including, without limitation, any action or proceeding concerning the matters referred to in Paragraphs 2 and 3 hereof.

5. The Spirits, on behalf of itself, the Predecessor Team, and their respective heirs, successors and assigns, subject to the provisions of Paragraph 3(B) of the Stipulation and Settlement Agreement in the action entitled American Basketball Association Players Association, et al. v. National Basketball Association, et al., United States District Court, Southern District of New York, No. 75 Civ. 6184 (RLC), executed as of July 26, 1976, hereby waives, relinquishes and releases all claims and rights they may have as of the date hereof, to the services of any basketball

players, including, but not limited to, the services of the players listed on Exhibit A hereto.

6. This instrument shall be binding upon and inure to the benefit of the Spirits and each of the NBA Parties and their respective personal representatives, successors and assigns, by contract or by operation of the law. No waiver of any right which might be asserted hereunder by any of the NBA Parties shall be effective unless set forth in a writing duly signed by the NBA Parties and no waiver of any right on one occasion shall constitute any waiver of such right or a similar right on any subsequent occasion.

7. This instrument shall be governed by and construed under the laws of the State of New York as applied to contracts to be wholly performed within such State without reference to rules regarding choice or conflicts of law.

8. The Spirits expressly acknowledges that none of the NBA Parties, nor anyone allegedly acting on the behalf of any of them, has made any representations, warranties or agreements, nor have any statements of any nature been made, on which the Spirits has relied in executing and delivering this instrument. The Spirits irrevocably waives and relinquishes, and covenants that it shall not assert or allege, any claim that it has been fraudulently induced to enter into, execute and deliver (or cause to execute and deliver) this instrument.

9. In the event that there shall appear to be any inconsistency between the recitals and Paragraphs 1 through 7 of this instrument, the provisions of said Paragraphs 1 through 7 shall prevail.

IN WITNESS WHEREOF, the Spirits has caused this instrument to be signed by a duly authorized officer on the day of July, 1976.

Spirits of St. Louis Basketball Club, a limited partnership

By _____
A duly authorized officer of Pak Fabrics, Inc., the General Partner of Spirits of St. Louis Basketball Club

1794

STATE OF N.Y.)
: ss.:
COUNTY OF N.Y.)

On this 29 day of July, 1976, before me personally appeared Steve Mendelow to me known and known to me to be the duly authorized officer of Pak Fabrics, Inc., the General Partner of the Limited Partnership known as Spirits of St. Louis Basketball Club mentioned and described in, and which executed the foregoing instrument, and the said officer duly acknowledged to me that he executed said instrument for and on behalf of and with the authority of the said Partnership and said corporation.

Donna-Marie Gillican
Notary Public

DONNA-MARIE GILLICAN
Notary Public, State of New York
No. 41-4528433
Qualified in Queens County
Commission Expires March 30, 1978

1795

EXHIBIT A

Marvin Barnes

Michael Barr

Ron Boone

M. L. Carr

Don Chaney

Mike D'Antoni

Randall Denton

Steven Michael Green

Caldwell Jones

Fred Lewis

Moses Malone

Barry Parkhill

Lonnie Shelton

1796

Schupak
Rosenfeld &
Fischbein

Attorneys at Law

555 Madison Avenue
New York, N.Y. 10022
Tel: (212) PL 9-0393
Cable: Taxavoc
Telex: 12-5362

European Office
5 Avenue Bertrand
1206 Geneva, Switz.
Tel: (022) 468353
Cable: Oberavoc
Telex: 27674

National Basketball Association,
Its Eighteen Members ("Grantors"),
and all other NBA Parties as
defined in the Release as
defined below
2 Penn Plaza
New York, New York

Dear Sirs:

We are counsel to Pak Fabrics, Inc. ("Pak"), a New Jersey corporation, and have represented it in connection with the execution and delivery of the Releas and Convenant Not to Sue of even date herewith from Pak and others for the benefit of NBA Parties (as defined therein) and others (the "Release").

On the basis of such investigation as we have deemed proper, please be advised that it is our opinion, as follows:

1. The execution and delivery of the Release have been duly authorized by all necessary corporate and where applicable, shareholder, action, and the Release h been duly and validly executed and delivered by an offic of Pak thereunto duly authorized.

2. The Release is valid and binding upon Pak and enforceable against it in accordance with its respective terms.

3. The execution, delivery and performance of the Release do not violate or result in a breach of the Certificate of Incorporation or By-Laws of Pak or any agreement or other writing of any nature to which Pak is a party or by which it is bound.

Very truly yours,

SCHUPAK ROSENFELD & FISCHBEIN

By: /s/
Donald Schupak

1797

Schupak
Rosenfeld &
Fischbein

Attorneys at Law

555 Madison Avenue
New York, N.Y. 10022
Tel: (212) PI 8-9393
Cable: Taxavoc
Telex: 12-5362

European Office
5 Avenue Bertrand
1206 Geneva, Switz.
Tel: (022) 468353
Cable: Oberavoc
Telex: 27674

National Basketball Association,
Its Eighteen Members ("Grantors"),
and all other NBA Parties as
defined in the document listed
in Paragraph A below
2 Penn Plaza
New York, New York

Dear Sirs:

We are counsel to Spirits of St. Louis Basketball Club L.P. (the "Spirits"), a Delaware limited partnership, and have represented it in connection with the execution and delivery of the Release and Covenant Not to Sue of even date herewith from the Spirits and others for the benefit of NBA Parties (as defined therein) and others (the "Release").

On the basis of such investigation as we have deemed proper, please be advised that it is our opinion, as follows:

1. The execution and delivery of the Release has been duly authorized in the manner provided in the Partnership Agreement of the Spirits, and the Release has been duly and validly executed and delivered by a partner of the Spirits thereunto duly authorized.

2. The Release is valid and binding upon the Spirits and enforceable against it in accordance with its terms.

3. The execution, delivery and performance of the Release do not violate or result in a breach of the Partnership Agreement of the Spirits or any agreement or other writing of any nature to which the Spirits is a party or by which it is bound.

4. The Spirits has succeeded to and is the sole owner of all claims and causes of action (as referred to in the Release), if any, against the NBA Parties formerly held by The Munchak Corporation, a Georgia corporation.

Very truly yours,

SCHUPAK ROSENFELD & FISCHBEIN

By: /s/
Donald Schupak

1798

ASSIGNMENT

KNOW ALL MEN BY THESE PRESENTS that, for value received, the receipt of which is hereby acknowledged, the Denver Nuggets, Inc. (hereinafter called "Assignor"), hereby "quit claims" and assigns unto the Spirits of St. Louis Basketball Club, L.P. (hereinafter called "Assignee") all of its right, title and interest in and to the player contract with Robert Jones (the "Player"), a copy of which is attached hereto and made a part hereof (which contract is hereinafter referred to as the "Player Contract"). This assignment is made pursuant to the terms of Section 15 of an Agreement executed contemporaneously herewith between the SPIRITS OF ST. LOUIS BASKETBALL CLUB, L.P., the DENVER NUGGETS, INC. (successor in interest to the DENVER NUGGETS BASKETBALL CLUB, successor in interest to the DENVER ROCKETS BASKETBALL CLUB, LTD.), ARENA SPORTS, INC. (successor in interest to INDIANA PROFESSIONAL SPORTS, INC.), LONG ISLAND SPORTS (a limited partnership), and SAN ANTONIO BASKETBALL, LTD., a Texas Limited Partnership, (successor in interest to PROFESSIONAL SPORTS, LTD.), and as collateral security for its obligations under Section 2 of said Agreement.

TO HAVE AND TO HOLD the Player Contract unto the Assignee, its successors and assigns forever, subject to the provisions of Section 15 of the Agreement.

Assignor hereby constitutes and appoints the Assignee as the Assignor's true and lawful attorney, with full power of substitution, in the Assignor's name and stead, on behalf of and for the benefit of the Assignee, to institute and conduct all actions and proceedings which the Assignee may deem necessary or desirable to reduce to possession, enforce and vest in itself all ownership and other rights with respect to the Player Contract; and Assignor hereby covenants that, from time to time, at the request of the Assignee and without further consideration, Assignor will, upon the request of the Assignee, execute and deliver all writings and participate, to the extent required by the Assignee, in all actions and proceedings, to effect the foregoing.

Assignor hereby agrees (a) to pay and discharge any unpaid compensation obligations under the Player Contract attributable to services rendered by the Player prior to the Foreclosure Date (as defined in the Agreement), to the extent that such compensation obligations were due and owing to the Player, on or before the Foreclosure Date, and (b) to pay and discharge when due any unpaid deferred compensation obligations under the Player Contract attributable to services rendered by the Player prior to the Foreclosure Date.

Assignor must supply Assignee with a true and complete copy of the contract of any player on Assignor's roster within three (3) days of its receipt of the written request herefor from the Assignee. Assignee shall keep the contract strictly confidential. Assignee can exercise its election to substitute player contracts under Section 15 of the Agreement by crossing

out the name of the player in the Assignment from the Assignor, putting in a different name and sending a copy of this changed Assignment to the Assignor by certified mail, return receipt requested. This substitution is effective upon receipt of the Assignment by the Assignor. Assignor shall not make any modifications in the Player Contracts or in the event another player contract is substituted therefore, no change shall be made in said substitute player contract subsequent to the date of such substitution, without written consent of the Assignee which shall not be unreasonably withheld. Nothing in the foregoing sentence shall restrict or inhibit modifications to all ABA player contracts contemplated by the Stipulation and Settlement Agreement.

This Assignment shall sooner terminate and revert to Assignor, be of no force and effect, and become null and void in the event that any of the ABA teams joins the NBA prior to October 16, 1976, as contemplated by the Expansion Agreement (as defined in the Agreement)

IN WITNESS WHEREOF, the Assignor has caused this Assignment to be duly executed effective as of the day of July, 1976.

DENVER NUGGETS, INC.

By_____

1801

ASSIGNMENT

KNOW ALL MEN BY THESE PRESENTS that, for value received, the receipt of which is hereby acknowledged,

San Antonio Basketball, Ltd.

(hereinafter called "Assignor"), hereby "quit claims" and assigns unto the Spirits of St. Louis Basketball Club, L.P. (hereinafter called "Assignee") all of its right, title and interest in and to the player contract with Mark Olberding (the "Player"), a copy of which is attached hereto and made a part hereof (which contract is hereinafter referred to as the "Player Contract"). This assignment is made pursuant to the terms of Section 15 of an Agreement executed contemporaneously herewith between the SPIRITS OF ST. LOUIS BASKETBALL CLUB, L.P., the NEW DENVER NUGGETS, INC. (successor in interest to the DENVER NUGGETS BASKETBALL CLUB, successor in interest to the DENVER ROCKETS BASKETBALL CLUB, LTD.), ARENA SPORTS, INC. (successor in interest to INDIANA PROFESSIONAL SPORTS, INC.), LONG ISLAND SPORTS (a limited partnership), and SAN ANTONIO BASKETBALL, LTD., a Texas Limited Partnership, (successor in interest to PROFESSIONAL SPORTS, LTD.), and as collateral security for its obligations under Section 2 of said Agreement.

TO HAVE AND TO HOLD the Player Contract unto the Assignee, its successors and assigns forever, subject to the provisions of Section 15 of the Agreement.

Assignor hereby constitutes and appoints the Assignee as the Assignor's true and lawful attorney, with full power of substitution, in the Assignor's name and stead, on behalf of and for the benefit of the Assignee, to institute and conduct all actions and proceedings which the Assignee may deem necessary or desirable to reduce to possession, enforce and vest in itself all ownership and other rights with respect to the Player Contract; and Assignor hereby covenants that, from time to time, at the request of the Assignee and without further consideration, Assignor will, upon the request of the Assignee, execute and deliver all writings and participate, to the extent required by the Assignee, in all actions and proceedings, to effect the foregoing.

Assignor hereby agrees (a) to pay and discharge any unpaid compensation obligations under the Player Contract attributable to services rendered by the Player prior to the Foreclosure Date (as defined in the Agreement), to the extent that such compensation obligations were due and owing to the Player, on or before the Foreclosure Date, and (b) to pay and discharge when due any unpaid deferred compensation obligations under the Player Contract attributable to services rendered by the Player prior to the Foreclosure Date.

Assignor must supply Assignee with a true and complete copy of the contract of any player on Assignor's roster within three (3) days of its receipt of the written request therefor from the Assignee. Assignee shall keep the contract strictly confidential. Assignee can exercise its election to substitute player contracts under Section 15 of the Agreement by crossing

out the name of the player in the Assignment from the Assignor, putting in a different name and sending a copy of this changed Assignment to the Assignor by certified mail, return receipt requested. This substitution is effective upon receipt of the Assignment by the Assignor. Assignor shall not make any modifications in the Player Contracts or in the event another player contract is substituted therefore, no change shall be made in said substitute player contract subsequent to the date of such substitution, without written consent of the Assignee which shall not be unreasonably withheld. Nothing in the foregoing sentence shall restrict or inhibit modifications to all ABA player contracts contemplated by the Stipulation and Settlement Agreement.

This Assignment shall sooner terminate and revert to Assignor, be of no force and effect, and become null and void in the event that any of the ABA teams joins the NBA prior to October 16, 1976, as contemplated by the Expansion Agreement (as defined in the Agreement)

IN WITNESS WHEREOF, the Assignor has caused this Assignment to be duly executed effective as of the day of July, 1976.

SAN ANTONIO BASKETBALL, LTD.

By_____

1804

ASSIGNMENT

KNOW ALL MEN BY THESE PRESENTS that, for value received, the receipt of which is hereby acknowledged, Arena Sports, Inc. (hereinafter called "Assignor"), hereby "quit claims" and assigns unto the Spirits of St. Louis Basketball Club, L.P. (hereinafter called "Assignee") all of its right, title and interest in and to the player contract with Billy Knight (the "Player"), a copy of which is attached hereto and made a part hereof (which contract is hereinafter referred to as the "Player Contract"). This assignment is made pursuant to the terms of Section 15 of an Agreement executed contemporaneously herewith between the SPIRITS OF ST. LOUIS BASKETBALL CLUB, L.P., the DENVER NUGGETS, INC. (successor in interest to the DENVER NUGGETS BASKETBALL CLUB, successor in interest to the DENVER ROCKETS BASKETBALL CLUB, LTD.), ARENA SPORTS, INC. (successor in interest to INDIANA PROFESSIONAL SPORTS, INC.), LONG ISLAND SPORTS (a limited partnership), and SAN ANTONIO BASKETBALL, LTD., a Texas Limited Partnership, (successor in interest to PROFESSIONAL SPORTS, LTD.), and as collateral security for its obligations under Section 2 of said Agreement.

TO HAVE AND TO HOLD the Player Contract unto the Assignee, its successors and assigns forever, subject to the provisions of Section 15 of the Agreement.

Assignor hereby constitutes and appoints the Assignee as the Assignor's true and lawful attorney, with full power of substitution, in the Assignor's name and stead, on behalf of and for the benefit of the Assignee, to institute and conduct all actions and proceedings which the Assignee may deem necessary or desirable to reduce to possession, enforce and vest in itself all ownership and other rights with respect to the Player Contract; and Assignor hereby covenants that, from time to time, at the request of the Assignee and without further consideration, Assignor will, upon the request of the Assignee, execute and deliver all writings and participate, to the extent required by the Assignee, in all actions and proceedings, to effect the foregoing.

Assignor hereby agrees (a) to pay and discharge any unpaid compensation obligations under the Player Contract attributable to services rendered by the Player prior to the Foreclosure Date (as defined in the Agreement), to the extent that such compensation obligations were due and owing to the Player, on or before the Foreclosure Date, and (b) to pay and discharge when due any unpaid deferred compensation obligations under the Player Contract attributable to services rendered by the Player prior to the Foreclosure Date.

Assignor must supply Assignee with a true and complete copy of the contract of any player on Assignor's roster within three (3) days of its receipt of the written request hereafor from the Assignee. Assignee shall keep the contract strictly confidential. Assignee can exercise its election to substitute player contracts under Section 15 of the Agreement by crossing

out the name of the player in the Assignment from the Assignor, putting in a different name and sending a copy of this changed Assignment to the Assignor by certified mail, return receipt requested. This substitution is effective upon receipt of the Assignment by the Assignor. Assignor shall not make any modifications in the Player Contracts or in the event another player contract is substituted therefore, no change shall be made in said substitute player contract subsequent to the date of such substitution, without written consent of the Assignee which shall not be unreasonably withheld. Nothing in the foregoing sentence shall restrict or inhibit modifications to all ABA player contracts contemplated by the Stipulation and Settlement Agreement.

This Assignment shall sooner terminate and revert to Assignor, be of no force and effect, and become null and void in the event that any of the ABA teams joins the NBA prior to October 16, 1976, as contemplated by the Expansion Agreement (as defined in the Agreement)

IN WITNESS WHEREOF, the Assignor has caused this Assignment to be duly executed effective as of the day of July, 1976.

ARENA SPORTS, INC.

By_____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSCAR ROBERTSON, et al.,

Plaintiffs,

- against -

NATIONAL BASKETBALL ASSOCIATION, et al.,

Defendants.

70 Civ. 1526 (RLC)

FINAL CONSENT JUDGMENT

There having been executed a Stipulation and Settlement Agreement, dated April 29, 1976, providing for settlement of this action upon the terms and conditions set forth therein; and

There having been an application to this Court for an Order and Judgment pursuant to Rule 23(e) of the Federal Rules of Civil Procedure approving the Stipulation and Settlement Agreement as fair, reasonable and adequate; and

This Court having determined by order dated February 14, 1975 that this action may be maintained as a class action pursuant to Rule 23(b)(1) of the Federal Rules of Civil Procedure, on behalf of all persons who are active players in the National Basketball Association between the playing season that included April 16, 1970 and the entry of this judgment in this action; and

This Court having determined by order dated February 14, 1975 that Counts IV and V of the First Amended and Supplemental Complaint should be dismissed and that

defendants' motions to dismiss and for partial summary judgment as to Counts I, II and III should be denied; and

This Court, by order dated September 15, 1975, having directed that Notice of Pendency of Class Action be given to the aforesaid members of the class, and due proof of mailing said notice having been filed with the Court; and

This Court, by order dated May 4, 1976, having directed that the Notice of Class Action Settlement is in compliance with the requirements of Rule 23(e) of the Federal Rules of Civil Procedure and should be given to all members of the class informing them of the proposed settlement of the action and of a hearing to be held on June 23, 1976 to determine whether the Stipulation and Settlement Agreement should be approved by the Court as fair, reasonable and adequate; and due proof of mailing of said notice having been filed with the Court; and

A hearing having been held before this Court on June 23, 1976, pursuant to the Notice of Class Action Settlement, at which all members of the class were accorded the opportunity to express their views on the fairness, reasonableness and adequacy of the Stipulation and Settlement Agreement; and

Objections to the Class Action Settlement having been made by three class members, one of whom gave testimony at the hearing; and

This Court after due deliberation upon presentation of all the relevant facts, including the aforesaid objections, having rendered its determination that the proposed settlement is fair, reasonable and adequate and should be approved in all respects; and

This Court having determined, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, that there is no just reason for delay in entry of a final judgment with respect to Counts I, II and III of the Second Amended and Supplemental Complaint,

NOW, THEREFORE, without trial or final adjudication of any issue of fact or law herein and upon consent of the parties, it is

ORDERED AND ADJUDGED, that the terms of the settlement of this action as set forth in the Stipulation and Settlement Agreement dated April 29, 1976 (a copy of which is annexed hereto as Exhibit A) are a fair, reasonable and adequate settlement of the claims asserted in this action; and that said Stipulation and Settlement Agreement be, and the same hereby is, approved in all respects; and it is further

ORDERED AND ADJUDGED, that the terms of the Stipulation and Settlement Agreement are incorporated into and made part of this Order and Judgment; and it is furtner

ORDERED AND ADJUDGED, that the parties are hereby authorized and directed to consummate the terms and provisions of the Stipulation and Settlement Agreement; and it is further

ORDERED AND ADJUDGED, that this action except for Count III of the Second Amended and Supplemental Complaint be, and the same hereby is, dismissed against all defendants on the merits, with prejudice and without costs (except those costs set forth in the Stipulation and Settlement Agreement); and it is further

ORDERED AND ADJUDGED, that this Order and Judgment be, and the same hereby is, a full and final discharge of, and con-

clusive as to, any and all liability of any party to this action, including all members of the class, with respect to the claims dismissed hereby; and it is further

ORDERED AND ADJUDGED, that Count III of the Second Amended and Supplemental Complaint shall be dismissed with prejudice and without costs, pursuant to a Judgment in the form annexed to the Stipulation and Settlement Agreement as Exhibit I, at such time as this judgment, by lapse of time or otherwise, shall no longer be subject to review or appeal or at such earlier time as this Court may direct; and it is further

ORDERED AND ADJUDGED, that this Order and Judgment be entered as a final judgment with respect to the claims dismissed hereby; and it is further

ORDERED AND ADJUDGED, that in accordance with the terms of the Stipulation and Settlement Agreement this Court retains exclusive jurisdiction over this action to enforce the terms of the Stipulation and Settlement Agreement; and it is further

ORDERED AND ADJUDGED, that the Court shall appoint a Special Master, pursuant to an order in the form annexed hereto as Exhibit B, to serve in accordance with and to enforce the Stipulation and Settlement Agreement in accordance with its terms and pursuant to Rules 53(a), (c), (d) and (e)(1) and (2) of the Federal Rules of Civil Procedure and that all

reports, transcripts of proceedings and other evidence and original exhibits, if any, relating to the proceedings before the Special Master, shall be filed with the Court.

Dated: New York, New York
July 30, 1976

Robert L. Carter
U.S.D.J.

CONSENTED TO:

NATIONAL BASKETBALL ASSOCIATION

By Lawrence F. Bennett
Commissioner, On Behalf of
Itself and Its 18 Members

WEIL, GOTSHAL & MANGES

By Peter Fleischer
Class Counsel

JUDGMENT ENTERED - 8/4/76
Raymond F. Burghardt
CLERK